



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/0328

Re: Property at 60 Steele Avenue, Mayfield, EH22 5LR (“the Property”)

Parties:

Mr Malcolm Lang, 21 Kintrae Crescent, Elgin, Moray, IV30 5NB (“the Applicant”)

Mr Cameron Calder, Miss Katie McLeish, 60 Steele Avenue, Mayfield, EH22 5LR (“the Respondent”)

Tribunal Members:

Mark Thorley (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order of eviction be granted.

Background

1. The applicant applied to the Tribunal by application dated 15 February 2024. The applicant sought eviction on a variety of grounds including (a) wishing to sell the property, (b) wishing to sell as there was significant financial hardship, (c) ground 11 the tenants running a business from the property without consent, and (d) ground 12 rent arrears over three consecutive months.

2. Accompanying the application was the Private Residential Tenancy Agreement, email from landlord, Notice to Leave, service of the Notice to Leave, Statement of tenant’s arrears, Section 11 Notice and proof of service and a Companies House Register for Wee Cleaning Company.

3. The applicant also included a copy of a Decision under Chamber reference FTS/HPC/CV/23/1670 from 6 July 2023 in which an order for payment was made against the respondents for rent in the sum of £2,076.

4. The application was acknowledged by the Tribunal on 22 January 2024.
5. Thereafter certain further information was sought by the Tribunal. This also included details of potential selling agents for the property. This information was subsequently provided by the applicant.
6. Thereafter on 4 March 2024 the application was to be considered.
7. The application was accepted for determination on 21 March 2024.
8. The application was served on the respondents by sheriff officers.

Case Management Discussion

1. At the case management discussion Mr Simpson attended as representative for the applicant. The applicant was also on the telephone.
2. Both of the respondents also attended.
3. The respondents made it clear that they received advice from the Local Authority that they could not simply leave the property but that they needed an order in order for the Local Authority to provide housing. They were not opposed to the application for eviction.
4. Thereafter there was some evidence led in relation to the application. It appears now that rent arrears are at £8,539.
5. The applicant wishes to sell the property. He has provided information from two separate selling agents.
6. He did explain that he is in significant financial difficulty as a result of this property. He is not getting paid rent. There is a mortgage on the property. The mortgage monthly amount has increased. He has depleted his savings. He has had to borrow money from family members. It is causing significant issues.
7. This is his only rental property.
8. The agent for the applicant confirmed that they are not going to insist on ground 12 being the breach of the Tenancy Agreement.

Findings in Fact

1. The parties entered into a Private Residential Tenancy Agreement for the property at 60 Steele Avenue, Mayfield, Dalkeith.
2. Entry to the property was afforded on 11 June 2021.
3. The rental income was £675 per month.
4. Rent arrears at the date of the case management hearing amounted to £8,539.

5. The applicant wished to sell the property.
6. The applicant was suffering significant financial hardship as a result of continuing to pay a mortgage on a property for which he was receiving no rent.
7. The respondents had been significantly in more than three months of rent arrears.

Reasons for decision

There was no opposition to the order. The respondents made it clear that they were wishing an order to be granted so that they could take that order to the Local Authority and be rehoused.

They did not dispute the arrears. They also did not dispute that the applicant wished to sell the property.

The applicant made out the case. There was significant documentation lodged showing his intention to sell the property. He is not a landlord with multiple properties.

The effect of having to pay a mortgage on the property whilst receiving no rent is causing significant financial hardship for him.

The Tribunal granted the order for eviction under grounds 1, 1(a) and 12.

Decision

To grant an order of eviction.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Mark Thorley

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Legal Member

25 June 2024
Date