



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”)

Chamber Ref: FTS/HPC/EV/24/0150

Re: Property at 11 DURHAM GROVE,, BONNYRIGG, EH19 3EU (“the Property”)

Parties:

Mr James Andrew, Thornton Loch Caravan Site, Dunbar, EH42 1QS (“the Applicant”)

Lynsey Graham, 11 DURHAM GROVE,, BONNYRIGG, EH19 3EU (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mrs E Dickson (Ordinary Member)

Decision

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

Background

1. This is a Rule 109 application dated 11th January 2024. The Applicant is seeking an eviction order under ground 4. The Applicant representative lodged a copy of the private residential tenancy agreement between the parties which commenced on 1st March 2021, a notice to leave dated 4th October 2023 with evidence of service, section 11 notice with evidence of service, a landlord statement and evidence to support the eviction ground. Further information was lodged to show the Respondent had been in contact with the local authority upon receipt of the notice to leave.

Case Management Discussion

2. A Case Management Discussion (“CMD”) took place by telephone conference on 4th July 2024. The Applicant was represented by Mr Raphael Barr, DJ Alexander. The Respondent was in attendance.
3. Mr Barr explained that the Applicant and the joint owner of the Property have been employed in managing a caravan park with live-in accommodation during

the duration of the tenancy. They have now retired and are in receipt of the state pension. They have moved out of the live-in accommodation. They are currently moving between friends, and require to live in the Property as their principal home.

4. The Respondent said she is not opposing the order. She contacted the local authority when the notice to leave was served in October 2023. She has been told that she will be considered homeless if an order is granted, and the order is required before she can be accommodated. The Respondent said she is a single parent with a 9-year-old child. She works in the local area of the Property and the child's school is in that area. The Respondent's elderly parents live in the area. She is keen to remain in the area, and has been told the local authority will do their best to ensure that is the case. The Respondent said she is keen to secure social housing as she has been renting privately for some years, and she now wishes the security of tenure offered by social housing. The Property is a two-bedroomed property. There are no vulnerabilities in respect of the Respondent and her child. The Property has not been adapted.

Findings in Fact and Law

5.
 - (i) Parties entered into a private residential tenancy agreement in respect of the Property on 1st March 2021.
 - (ii) The Applicant has served a Notice to Leave upon the Respondent.
 - (iii) The Applicant intends to live in the Property.
 - (iv) The Applicant intends to occupy the Property as their only or principal home for at least 3 months.
 - (v) The Applicant and the joint owner of the Property are currently without accommodation and are staying with friends.
 - (vi) The Respondent is keen to secure social housing.
 - (vii) It is reasonable to grant an eviction order.

Reasons for Decision

6. Ground 4 of Schedule 3 of the Act provides that it is an eviction ground that the landlord intends to live in the let property. The Tribunal may find that this applies if the landlord intends to occupy the let property as their only or principal home for at least three months; and the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact. The Tribunal is satisfied that Ground 4 has been established, as the Applicant is no longer in employment and has had to leave the live-in accommodation provided with his former job.

7. The Tribunal is satisfied that the necessary Notice to Leave has been correctly issued to the Respondent in terms of the Act.
8. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties as put forward at the CMD.
9. The Tribunal took into account that the Applicant and the joint owner of the Property are currently without accommodation and are moving between friends. The Tribunal took into account that the Respondent is not opposing the order, and wishes the security of tenure to be offered by social housing. The Respondent is in contact with the local authority and seems confident they will assist her, but only if an order is granted.
10. In all the circumstances, the Tribunal considered it reasonable to grant the order sought.

Decision

11. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 7th August 2024.

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.

Ms H Forbes

Legal Member/Chair

Date 4th July 2024