



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

Chamber Ref: FTS/HPC/EV/24/0911

Re: Property at 49 Arthur Street, Dunfermline, KY12 0JP (“the Property”)

Parties:

Dr Helen Burke, Mr Ronald Lamont, Flynn Street, Wembley, Western Australia, 10151, Australia; 31 Copperkins Avenue, Amersham, HP6 5QF (“the Applicants”)

Miss Joanna James, Mr Karol Sieradzinsk, 49 Arthur Street, Dunfermline, KY12 0JP; 17 Hyvots Bank Avenue, Edinburgh, EH17 8NH (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Second Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants are entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicants submitted an application under Rule 109 for an order to evict the Respondents from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 13 May 2024 informing both parties that a CMD had been assigned for 17 June 2024 at 11:30am, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and

considers the procedure to have been fair. The Respondents were invited to make written representations by 3 June 2024. No written representations were received by the Tribunal.

The case management discussion

4. The CMD took place by conference call. The Applicants were represented by Miss Beverley Hughes. The First Respondent joined the conference call and represented herself. The Second Respondent did not join the conference call and the discussion proceeded in his absence. The Tribunal explained the purpose of the CMD. The Applicants' representative explained that the Property is the only rental property owned by the Applicants. Their circumstances have changed and they no longer wish to be landlords and intend to sell the Property. The First Respondent did not oppose the application. She explained that the Second Respondent vacated the Property around 2 years ago. The First Respondent cannot secure another private let. She has been in contact with the local authority and no offers of alternative accommodation have been made. The First Respondent has 3 children who live with her.
5. The Tribunal adjourned briefly to consider the information provided by both parties. The Tribunal explained that it found the ground of eviction established and that it was reasonable to grant the order. The Tribunal also explained that it exercised its discretion in terms of section 216(4) of the Bankruptcy and Diligence Etc (Scotland) Act 2007 and extended the period of charge specified in section 216(1) of the Act by 2 months.

Findings in Fact

6. The parties entered into a private residential tenancy which commenced 13 November 2019.
7. The Applicants served Notice to Leave on the Respondents by email on 24 November 2023.
8. The Applicants intends to sell the let property.

Reason for Decision

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicants relied upon ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016. The First Respondent did not dispute that the Applicants intend to sell the property and did not oppose the application. The First Respondents is waiting on the local authority providing alternative accommodation. The Tribunal was satisfied that ground 1 had been established and that it was reasonable to grant the order sought. Given that the Respondent have 3 children, the Tribunal considered that it was appropriate to

exercise its discretion by allowing an extended period for enforcement of the order. The Tribunal therefore extended the period of charge by 2 months.

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.

Nicola Irvine

Legal Member/Chair

— 17 June 2024
Date