



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/24/1517

Re: Property at 22D Kilcreggan View, Greenock, PA15 3JD (“the Property”)

Parties:

Bank of Scotland PLC, The Mound, Edinburgh, EH1 1YZ (“the Applicant”)

Barbara Ferguson, Heather Ferguson, Daniel Ferguson, 22D Kilcreggan View, Greenock, PA15 3JD (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Frances Wood (Ordinary Member)

Decision

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

1. On 3rd April 2024 the Applicant lodged an Application with the Tribunal under Rule 65 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondents from the property under Ground 2 of Schedule of the Housing (Scotland) Act 1988.

2. Lodged with the application were: -
 - i. Short Assured Tenancy Agreement dated 4th April 2015, commencing on 4th May 2015 and described as “ongoing tenancy”;
 - ii. Copy Land Certificate REN43822;
 - iii. Copy decree for possession dated 23rd September 2022 from Greenock Sheriff Court;

- iv. Notice to Quit dated 22nd November 2023 for 25th January 2024;
 - v. Form AT6 dated 22nd November 2023 for 25th January 2024;
 - vi. Section 11 Notice and proof of service;
 - vii. Copy of form BB.
3. The Application was served on the Respondent by Sheriff Officers on 11th June 2024.
 4. On 5th July 2024 the Tribunal received an email from the Respondent's representative with a Written Submission. It said that the Respondent was willing to consent to the order being granted if there was a delay in extract. It said that the Respondent had engaged with Inverclyde Council's homelessness service and they were trying to secure her housing, and she was also looking in the private sector.
 5. On 8th July 2024 the Applicant's solicitor sent an email to the Tribunal confirming that the Applicant would agree to a three month delay in extract.

Case Management Discussion

6. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Mr Oswald of TLT Solicitors. The Respondents were represented by Miss King of the Legal Services Agency.
7. Mr Oswald and Miss King advised the Tribunal that they were in agreement that the order should be granted, and that the earliest date for eviction should be 1st November 2024.
8. The Tribunal were satisfied that the ground had been established and, in light of the fact that the Respondents were consenting to the order that it was reasonable to grant the order.

Findings in Fact

- a. The Respondents entered into a Short Assured Tenancy Agreement dated 4th April 2015 with Patrick McWaters commencing on 4th May 2015 and described as "ongoing tenancy";
- b. Patrick McWaters granted a security over the property to the Applicant registered in the Land Register of Scotland on 28th July 2008;
- c. The Applicant obtained a decree for possession from Greenock Sheriff Court dated 23rd September 2022;
- d. The Applicant served Notice to Quit dated 22nd November 2023 for 25th January 2024;

- e. The Applicant served Form AT6 dated 22nd November 2023 for 25th January 2024;
- f. The Applicant served Section 11 Notice on the relevant local authority;
- g. The Applicant was served on the Respondents on 11th June 2024;
- h. The Respondents consent to the order being granted.

Reason For Decision

- 9. The matter was agreed between the parties. The Tribunal was satisfied that the ground had been established, and, as the Respondents were consenting to the order, that it was reasonable to grant it.

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.

A Kelly

16th July 2024

Legal Member/Chair

Date