



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/EV/23/4361

Re: Property at 5 Braesburn rd, Cumbernauld, G67 3PY (“the Property”)

Parties:

Manish Khanna and Rajan Pandey, Rajan Pandey, Radliegh house, 1 Golf Road, Clarkston, G76 7HU; Easter Balmuilty Farm, Balmuilty Road, Glasgow, G23 5HE (“the Applicant”)

Ms Tracey Carlin, 5 Braesburn rd, Cumbernauld, G67 3PY (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

BACKGROUND

1. By lease dated 28 September 2022 and 24 November 2022 the Applicants let the property to the Respondent. The start date of the tenancy was 1 October 2022. The Respondent, however, advised the Tribunal that she has, in fact, resided at the Property for approximately 10 years. She advised that she was simply asked to sign a new tenancy agreement recently and she complied with that request.
2. The Applicants served Notice to Leave upon the Respondent intimating they wished vacant possession as they wished to sell the Property.
3. A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority.

4. The Applicants thereafter presented an application to the Tribunal seeking an Order for Eviction.
5. The Applicants provided confirmation from a firm of solicitors that they had been instructed to act in the sale of the Property.
6. The Respondent forwarded written submissions to the Tribunal prior to the Case Management Discussion outlining her personal circumstances and other background information.

THE CASE MANAGEMENT DISCUSSION

7. The First Named Applicant, Manish Khanna participated in the Case Management Discussion. The Second Named Respondent, Rajan Pandey did not. The Respondent participated personally.
8. Mr Khanna moved the Tribunal to grant an order for eviction. He advised that, due to increasing mortgage rates and the inability to increase rent due to recent restrictions on rent increases it was no longer viable for he and Rajan Pandey to continue to let this property.
9. Mr Khanna was not minded to provide the Tribunal with any further information in relation to the finances relative to the application considering those to be a private matter. The Tribunal noted that, in the absence of information being provided, it was unable to make any assessment of the financial burden being suffered by the Applicants.
10. The Respondent, however, was not opposed to the Application. She had provided written submissions to the Tribunal in advance. She confirmed that she was willing to vacate the premises. She has already been taking steps to secure alternative accommodation. She has four children, one of them being an adult. The eldest child has a learning disability. She will require a four bedroom property. She would be unable to secure a suitable four bedroom property in the private rented sector having regard to the levels of rent now sought for such properties. She has been actively engaging with the local authority with a view to being allocated suitable alternative accommodation.
11. The Respondent has already packed up most of her belongings. She is keen to move as soon as possible. She did not wish to oppose the application. She did not wish to argue any matter relating to the reasonableness of an eviction order being granted.
12. The Tribunal discussed with Parties the possibility of an eviction order being granted but the date of enforcement being deferred. The Applicants were opposed to that, Mr Khanna simply referring to the fact that this Property was no longer financially viable to be let by him and Mr Pandey. The Respondent

advised she was not seeking to have the date of eviction deferred as she was keen to secure alternative accommodation as soon as possible. The obtaining of an eviction order will, of course, assist in her discussions with the local authority.

13. In the circumstances, having regard to the position of the parties, which was an agreed position, that an eviction order should be granted, the Tribunal granted same.

DECISION

The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 of Schedule 3 of said Act.

Order not to be executed prior to 12 noon on 31 July 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.

Virgil Crawford

24 June 2024

Legal Member/Chair

Date