



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 26 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules') in relation to an application for eviction/ possession of a Rented Property in terms of Rule 109 of the Procedure Rules.

Chamber Ref: FTS/HPC/EV/24/0245

Re: Flat 0/2, 117 Deanston Drive, Glasgow, G41 3LJ ('the Property')

Parties:

Balwinder Jassal residing at 10 Torrmeadow Road, Glasgow, G77 6TE ('the Applicant')

G4 Properties Ltd, 52 Albert Road, Glasgow, G42 8DN ('The Applicant's Representatives')

Sarah Kirby residing at Flat 0/2, 117 Deanston Drive, Glasgow, G41 3LJ ('the Respondent')

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal')

Tribunal Members: Jacqui Taylor (Legal Member) Helen Barclay (Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') determined that the order for possession of the Property be granted.

1. Background

1.1. The Applicant submitted an application to the Tribunal for eviction/ possession of the Rented Property under section 51(1) of the Private Housing Tenancies (Scotland) Act 2016, in terms of Rule 109 of the Procedure Rules.

1.2. The application was dated 16th January 2024. The application states that the ground for eviction was as follows:
'Ground 1: The Landlord intends to sell the Let Property.'

1.3. Documents lodged with the Tribunal were:-

- The Private Residential Tenancy Agreement between the parties dated 25th April 2021.
- Notice to Leave dated 11th October 2023 advising the Tenant that an application will not be submitted to the Tribunal for an eviction before 6th January 2024 and the eviction ground is that the Landlord intends to sell the Property.
- Email to the Respondent dated 11th October 2023 sending her the Notice to Leave.
- Email to Glasgow City Council dated 16th January 2024 attaching the Section 11 Notice.
- Section 11 Notice addressed to Glasgow City Council.
- A letter from Property Zone dated 4th March 2024 with refers to Mr Jassal's intention to sell the Property and provides details of the market valuation of the Property.

2. By Notice of Acceptance by Neil Kinnear, Convener of the Tribunal, dated 25th March 2024, he intimated that he had decided to refer the application (which application paperwork comprises documents received between 16th January 2024 and 25th March 2024) to a Tribunal.

3. The Respondent sent the Tribunal an email dated 15th July 2024 confirming that she consented to the order.

4. Case Management Discussion

This case called for a conference call Case Management Discussion (CMD) at 10.00 on 29th July 2024.

The Respondent attended together with the Applicant's representatives Mr Haq and Mr Hassan, both employed by G4 Properties Ltd.

4.1 Oral Representations by the parties:

4.1.1 Mr Hassan explained that Mr Jassal intends to sell the Property. There has been a change in his personal circumstances as he has incurred a significant tax bill and needs to sell the Property to clear off the debt. He does not know the exact amount of the tax bill but believes that it amounts to tens of thousands of pounds. The equity in the Property is approximately £70,000. He advised that Mr Jassal owns two other properties but they are smaller one bedroom properties and there is less equity in these properties. He advised that he considers that it is reasonable for the Tribunal to grant the eviction as Mr Jassal does not have any other options but to sell the Property due to his personal finances. He confirmed that Mr Jassal is happy to work with Ms Kirby to allow her a reasonable amount of time to find alternative accommodation.

4.1.2 Ms Kirby advised that she does not oppose the eviction. She lives in the Property with her ten year old son. She has lived in the Property for eight years. She has made housing applications to a number of Housing Associations. She accepts that she will have to move. She believes that there are rent arrears of approximately £400. She is employed full time.

5. Requirements of Section 109 of the Procedure Rules.

(a) The Tribunal confirmed that the application correctly detailed the requirements of section 109(a) of the Procedure Rules namely:-

- (i) the name, address and registration number of the Landlord.
- (ii) the name and address of the Landlord's representative.
- (iii) the name and address of the Tenant.
- (iv) the ground of eviction. The ground stated in the application is that the Applicant intends to sell the Property.

The Tribunal accepted that this is Ground 1 of Schedule 3 of the 2016 Act.

(b) The Tribunal confirmed that the application correctly detailed the requirements of Section 109(b) of the Procedure Rules:

- (i) evidence showing that the eviction ground or grounds had been met.

The letter from Property Zone was sufficient in its terms.

- (ii) a copy of the notice to leave given to the Tenant as required by section 52(3) of the 2016 Act.

The Tribunal confirmed that the Notice to Leave was in correct form as set out in Schedule 5 of the Private Residential Tenancies Notices and Forms (Scotland) Regulations 2017 ('The 2017 Regulations').

The Notice to Leave was dated 11th October 2023 and advised the Tenant that an application would not be submitted to the Tribunal for an eviction order before 6th January 2024.

The Tenant had resided in the Property for more than six months and the application for eviction was based on ground 1 of Schedule 3 of the 2016 Act and therefore eighty four days notice was required. The Notice to Leave was sent to the Respondent by email on 11th October 2023. The Notice to Leave correctly gave the Tenant a minimum of eighty four days notice.

- (iii) a copy of the notice given to the local authority as required by Section 56(1) of the 2016 Act.

The Tribunal confirmed that a copy of the required notice had been provided.

(c) The Tribunal confirmed that the application form had been correctly signed and dated by the Landlord's representatives as required by Section 109(c) of the Procedure Rules.

6. Decision

6.1 The Tribunal found that the Applicant had met the requirements of Ground 1 of Schedule 3 The Private Housing Tenancies (Scotland) Act 2016 for the following reasons:

6.1.1 The Tribunal had a copy of the Landlord's title GLA131273 and established that the Applicant is heritable proprietor of the Property and he is entitled to sell the Property.

6.1.2 Evidence had been provided that the Applicant intend to sell the Property. The Tribunal accepted the following evidence:

6.1.2.2 The oral submissions by the Applicants Representative Mr Hassan who explained that the Applicant needs to sell the Property due to a significant tax bill.

6.1.2.3 The letter from Property Zone dated 4th March 2024 which refers to the Applicant's intention to sell the Property and provided a valuation.

6.1. 3 The Tribunal find as a matter of fact that the Applicant intends to put the Property up for sale once he obtains vacant possession.

6.2 The Tribunal were mindful of the decision of Lord Greene in the case of Cummings v Dawson (1942) 2 All ER 653 on matters to consider when determining reasonableness:

'In considering reasonableness... it is my opinion, perfectly clear that the duty of the judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad, common sense way as a man of the world, and to come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or more weight, others may be decisive.'

The Tribunal found that it was reasonable for the eviction order to be granted given the fact that Applicant has incurred a significant tax bill, there is approximately £70,000 equity in the Property, the Applicant needs to sell the Property to enable him to pay off his debts and the fact the Respondent consents to the order and has applied for alternative housing.

6.3 The Tribunal granted the eviction.

7. 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.

Jacqueline Taylor

Legal Member

29th July 2024