



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/24/0465

Re: Property at 24 Seafield View, Kirkcaldy, KY1 1ST (“the Property”)

Parties:

Mr Charles Richard Simms, 28 Cedarhurst Road, Portishead, Bristol, BS20 8HG (“the Applicant”)

Ms Ancuta Colompar, Mr Vina Negru, 24 Seafield View, Kirkcaldy, KY1 1ST (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Tony Cain (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 26th January 2024. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 14th June 2024, all parties were written to with the date for the Case Management Discussion (“CMD”) of 24th July 2024 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 5th July 2024.
3. On 17th June 2024, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondents personally leaving it in the hands of the First Named Respondent, Ms Ancuta Colompar. This was evidenced by Certificate of Intimation dated 17th June 2024.

The Case Management Discussion

4. A CMD was held on 24th July 2024 at 2pm by teleconferencing. The Applicant was present and represented himself. The Respondents were not initially present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondents did not make any representations in advance of the CMD.
5. The Applicant said that he has five properties in total. Four of these properties are in Scotland and one in England. He is trying to sell all of the properties before he is 60 next year and retires. He is completing on one property by Friday. Two of the properties have tenants that are leaving. That leaves this one and one other property. The other one has been served with a notice to leave. There are arrears on the Property for £1270 which is just over three months rent. The full rent payment was made in June 2024. There have been some antisocial behaviour issues raised to the Applicant by the local authority in terms of rubbish disposal. The Applicant said that the Property had been let for an adult couple and two children but there were four children in the Property and other family members at times. This means the Property was overcrowded. The Applicant said that it has become far more difficult to be a landlord over the last few years with the changes in legislation that have made significant differences causing difficulties to landlords.
6. The Applicant has a daughter who lives in Australia. He is hoping to visit her more when he is retired which he will mean that he is out of the country for longer periods of time than he is currently. He said that he will find it even more difficult to attend to his landlord duties being out of the country.
7. The First Named Respondent joined the call at 2.30pm this was after the Tribunal had adjourned to reach its decision and was reconvening to deliver its decision. She initially said that she required an interpreter but then said that she did not. She communicated well with the Tribunal. She was very clear in the fact that she did not want to remain in the Property. She is very overcrowded. She lives in the Property with the Second Named Respondent and their four children who are aged 13, 12, 6 and 3 years old. The children are currently all sharing one bedroom. Her local council has said that she will be rehoused in alternative or temporary accommodation once the Tribunal has made a decision. She will be there until she can be given permanent appropriate accommodation. The First Named Respondent said that she was to leave the Property in the next few days and return the keys once she had been allocated somewhere from her local council.
8. The Tribunal considered it appropriate, fair and reasonable to grant an order for eviction particularly given that the Respondents were not opposed to an order being granted.

Findings and reason for decision

9. A Private Rented Tenancy Agreement commenced 15th July 2021.

10. The Applicant wishes to sell his whole property portfolio including this property. He no longer wishes to be a landlord as he wants to retire next year when he is 60 years old.
11. The Respondents do not oppose an order for eviction being granted. They have spoken to their local authority homeless department with regard to be placed into temporary housing. They are overcrowded in the current property.
12. There are no issues of reasonableness that prevent an order from being granted.

Decision

13. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant.

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.

G. Miller

24th July 2024

Legal Member/Chair

Date