



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/24/0799

Re: Property at 27 Mossneuk Drive, Paisley, PA2 8PG (“the Property”)

Parties:

Mrs Helen Turner, 8 Wrigley Fold, Manchester, M24 5XA (“the Applicant”)

Mr Mark Pursley, 27 Mossneuk Drive, Paisley, PA2 8PG (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted 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 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

- Background
 1. An application was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of the Applicant’s intention to sell the Property, being Ground 1 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).
- Case Management Discussion
 2. A Case Management Discussion (“CMD”) took place on 9 August 2024. The Applicant represented herself. There was no appearance by or on behalf of the Respondent. The Tribunal was satisfied that the application had been intimated on the Respondent by way of Sheriff Officer on 4 July 2024 and that the

Respondent had sufficient intimation of the date and time of the CMD. Accordingly, the Tribunal was satisfied that the CMD could proceed in the Respondent's absence.

3. A separate application raised under Rule 111 and under case reference FTS/HPC/CV/24/0803 under which the Applicant was seeking a payment order against the Respondent, was heard at the same time.
4. The Applicant moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement ("the Agreement"), which commenced 19 March 2020. The Respondent had been in and out of rent arrears during the course the tenancy. The rent arrears currently stood at £1,100. There have been complaints of antisocial behaviour from neighbours, and issues with the Respondent failing to give access for inspections and safety checks. The Respondent has advised the Applicant that he only resides in the Property one week out of two. For the other week, he resides with his partner (with whom he has a young child) in his partner's property in Kilmarnock. The Respondent resides in the Property alone and no children reside there with him, only visiting him there on weekends. The Applicant intended to sell the Property and required vacant possession in order to do so. The Applicant's daughter is attending university in September and the Applicant requires to release the equity in the Property to assist her with financing her daughter's studies. The Applicant's costs of insurance, mortgage, etc outweigh the rental income she receives for the Property and the lease of the Property is no longer financially viable. The Applicant was finding that managing a problematic tenancy from a distance of some 240 miles away was proving to be very stressful. A Notice to Leave had been served on the Respondent on the basis of Ground 1 of Schedule 3 to the 2016 Act, on 22 November 2023.
5. The following documents were lodged alongside the application:
 - (i) Copy Private Residential Tenancy Agreement
 - (ii) Copy Notice to Leave
 - (iii) Proof of service of the Notice to Leave by recorded delivery
 - (iv) Section 11 notification to the local authority under the Homelessness etc. (Scotland) Act 2003
 - (v) Documentation from Allen & Harris, estate agents confirming instruction re appraisal of the Property for marketing for sale

- Findings in Fact

6. The Tribunal made the following findings in fact:
 - (i) The parties entered into a Private Residential Tenancy Agreement which commenced on 19 March 2020;
 - (ii) The Applicant is the heritable proprietor of the Property;
 - (iii) The Applicant is entitled to sell the Property;
 - (iv) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 1 of Schedule 3 to the 2016 Act;

(v) The Applicant has provided confirmation that an estate agent has been instructed regarding the marketing of the Property.

- Reasons for Decision

7. The Tribunal was satisfied that the terms of Ground 1 of Schedule 3 to the 2016 Act had been met, namely that the Applicant intends to sell the property and intends to do so within 3 months of the Respondent ceasing to occupy it. The Tribunal was satisfied that a Notice to Leave had been served on the Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act. The tribunal was also satisfied that it is reasonable under the circumstances to grant the order. The let of the Property is no longer financially viable for the Applicant. She requires to release the equity from the Property to finance her daughter's university studies. She is suffering ongoing financial losses due to the rent arrears being accrued by the Respondent.

- Decision

8. 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 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

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.

Fiona Watson

Legal Member/Chair

Date: 9 August 2024