



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/1690

Re: Property at Flat 0/4, 3 Crossflats Crescent, Paisley, PA1 1NS (“the Property”)

Parties:

Mr Alexander Innes, 86a Macarthur Wynd, Cambuslang, Glasgow, G72 7GA (“the Applicant”)

Miss Donna Kinney, Flat 0/4, 3 Crossflats Crescent, Paisley, PA1 1NS (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and John Blackwood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property.

Background.

1. By application dated 3 April 2024 the Applicant’s representatives, Duffy Toshner & Co Ltd applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a copy of a tenancy agreement, Notice to Leave, Section 11 Notice, Home Report, emails from Estate Agents together with other documents in support of the application.
2. By Notice of Acceptance dated 7 May 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 13 June 2024.
4. By email dated 20 June 2024 the Applicant's representatives advised the Tribunal that they were no longer representing the Applicant and that he would represent himself at the CMD.

The Case Management Discussion

5. A CMD was held by teleconference on 17 July 2024. The Applicant attended in person. The Respondent did not attend nor was she represented. The Tribunal being satisfied that proper intimation of the date and time of the CMD had been given to the Respondent determined to proceed in her absence.
6. The Applicant confirmed the Respondent had commenced her tenancy of the property on 31 August 2018 and that the rent remained at £375.00 per calendar month.
7. The Applicant confirmed the Respondent had been served with a Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act on 29 November 2023.
8. The Tribunal noted that a Section 11 Notice had been sent by recorded delivery post to Renfrewshire Council on 8 April 2024.
9. The Applicant explained that due to the cost-of-living crisis he had experienced some financial difficulties and as he was in his 66th year now wished to recoup capital from the property in order to pay off debts and improve his family's living standards. The Applicant explained the Respondent owed rent of £3500.00. He said that if the rent was paid the property would return a small profit but at present the outgoings were funded from the Applicant's own funds. The Applicant went on to say that he had purchased the property from redundancy money in order to save it and now he needed to realise the asset to help with his living costs.
10. The Applicant said he had lost a buyer for the property in April 2024 as a result of the Respondent failing to move out of the property. He said that there had been little contact with the Respondent over the past eight months and that when he had tried to arrange an inspection the Respondent had not responded.
11. The Applicant said that after being served with the Notice to Leave the Respondent had sought advice from the CAB and the Applicant had subsequently received a communication from the CAB to say the Respondent would not be moving out until an order was granted by the Tribunal. The Applicant said that after an offer was received for the property the Respondent became totally uncooperative.

12. The Applicant said the Respondent lived alone in the property with her cat.
13. The Applicant asked the Tribunal to grant the order.

Findings in Fact

14. The parties commenced a Private Residential tenancy on 31 August 2018 at a rent of £375.00 per calendar month.
15. The Respondent was served with a Notice to Leave by Sheriff Officers under Ground 1 of Schedule 3 of the 2016 Act on 29 November 2023.
16. The Applicant intends to sell the property.
17. Intimation of the proceedings was sent to Renfrewshire Council by way of a Section 11 Notice by recorded delivery post on 8 April 2024.
18. The Respondent has accrued rent arrears of about £3500.00.
19. The Applicant has marketed the property for sale and one offer has fallen through as a result of the Respondent not moving out of the property.
20. The Applicant has incurred debts and wishes to realise capital from the sale of the property to clear his debts and improve his living standards.
21. The Respondent lives on her own in the property with her cat.

Reasons for Decision

22. The Tribunal was satisfied from the documents submitted and the oral submissions of the Applicant that the parties entered into a Private Residential tenancy that commenced on 31 August 2018. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 1 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to Renfrewshire Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced and the Applicant's oral submissions that he intends to use Ross Property to market the property for sale and that he had obtained an offer for the property that had fallen through as a result of the Respondent not moving out of the property.
23. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that despite being given an opportunity to submit written representations and to attend the CMD the Respondent had chosen to do neither although it did appear that the Respondent may have sought advice from the CAB. The Tribunal

had little information as regards the Respondent's personal circumstances other than the fact she lived alone with a cat. In reaching its decision the Tribunal took account of the substantial rent arrears that the Respondent had accrued together with the financial impact this and the general cost of living was having on the Applicant who had incurred some debts that he now wished to clear. The Tribunal had to balance the needs of the Applicant with the needs of the Respondent in arriving at a decision in the circumstances the Tribunal was satisfied that the needs of the Applicant were such that it was reasonable to grant an order for eviction.

Decision

24. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for the eviction of the Respondent from the property.

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.

Graham Harding

17 July 2024

Legal Member/Chair

Date