



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/24/1109

Re: Property at 57 Skelmorlie Place, Kilwinning, Ayrshire, KA13 6SJ (“the Property”)

Parties:

Ms Lucy Kellet, Downsview, Mill Lane, South Chailey, Lewes, BN8 4AY (“the Applicant”)

Ms Donna Hewitson, 57 Skelmorlie Place, Kilwinning, Ayrshire, KA13 6SJ (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted against the respondent

Introduction

This is an application under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The application seeks an eviction order.

Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the respondent by Sheriff Officers on 24 June 2024.

The CMD took place by teleconference on 31 July 2024 at 11.30 am. The applicant represented her own interests. The respondent was represented by Mr Alister Meek of CHAP.

Findings and Reasons

The property is 57 Skelmorlie Place, Kilwinning, Ayrshire KA13 6SJ. The applicant is Lucy Kellett who is the heritable proprietor of the property and the registered landlord. The respondent is Donna Hewitson who is the tenant.

The parties entered into a private residential tenancy in respect of the property which commenced on 21 January 2020. The rent was stipulated at £550 per month.

The applicant relies upon ground 1 contained within part 1, schedule 3 to the 2016 Act. This specifies that it is an eviction ground where the landlord intends to sell the let property.

The relevant notice period under ground 1 at the time that the notice to leave was served was one of 84 days. The notice to leave is dated 4 December 2023 and stipulates that the earliest an application be submitted to the tribunal would be 27 February 2024. A Sheriff Officer's execution has been provided which discloses that the notice to leave was served upon the respondent on 4 December 2023. Sufficient notice was given.

In support of the applicant's intention to sell she has produced correspondence with Welcome Homes Ayrshire. An email was sent to them instructing them to sell the property following receipt of a valuation from that organisation.

The applicant has also produced a number of documents which establish her motivation for selling the property. These documents disclose the separation from her ex-partner. She has a son who has been diagnosed with autism. They are both living temporarily with the applicant's ex-partner who is not prepared to house them in the longer term. The relationships are stressful and having an adverse impact in particular upon the applicant's son who has additional support needs. The applicant requires to buy a suitable property for herself and her son and requires the net free proceeds of sale from the let property which is the subject of this application to do so.

The tribunal was satisfied on the basis of the credible and reliable evidence produced that it is the applicant's genuine intention to sell the let property. This is not disputed by the respondent.

The tribunal proceeded to consider the issue of reasonableness on the making of an eviction order. The tribunal weighed up the respective circumstances and needs of the parties

The respondent does not oppose the application. She has three children who are 7, 9 and 11 years, one of whom has additional support needs. She has already made contact with the local authority regarding the allocation of alternative accommodation. A relevant Section 11 notice has been issued to the relevant local authority. The tribunal was satisfied that it is most likely that the respondent will be provided with alternate accommodation in the event of an eviction order being made against her

Mr Meek assured the Tribunal that the respondent would move out of the property as soon as suitable accommodation became available and that this could be less than the 60 days sought.

Weighing up the respective circumstances of the parties, the tribunal concluded that it was reasonable to grant the eviction order.

Mr Meek has local knowledge of the local housing situation and how the local authority allocate tenancies. He asked that the period for implementation be extended. The respondent requires a three bedroomed property. She may be offered a permanent tenancy as opposed to a homeless temporary allocation if she has some additional time. The eviction will have an impact upon the three children. The applicant and her son are also noted to be in a precarious situation. The applicant has already required to wait some significant time to reach this stage as is the requirements to seek an eviction order. The extension of a further 30 days from the minimum 30 days to 60 days (maximum) is proportionate in all of the circumstances.

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.

Richard Mill

Legal Member/Chair

31 July 2024

Date