



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/24/0829

Re: Property at 37 Thomson Grove, Uphall, West Lothian, EH52 6BP (“the Property”)

Parties:

Mr Paul Grant, 2 Webster Court, Broxburn, West Lothian, EH52 5HS (“the Applicant”)

Miss Karen McGregor, 37 Thomson Grove, Uphall, West Lothian, EH52 6BP (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member) and Gordon Laurie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in favour of the Applicant and against the Respondent in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 and that the Applicant is entitled to sell the let property, intends to sell it for market value or at least put up for sale within three months of the tenant ceasing to occupy it and the tribunal was satisfied on account of those facts that it is reasonable to grant an order.

Background

1. This application for an eviction order in terms of Rule 109 of the tribunal rules of procedure was first lodged with the tribunal on 20th of February 2024 and accepted by the tribunal on 18th April 2024. A Case management discussion was fixed for 21st August 2024 at 2:00 pm

Case Management Discussion

2. The applicant attended the case management discussion but was represented by Mrs Orr of Martin and Company Letting Agents. The Respondent attended the case management discussion and represented herself.

3. The tribunal had sight of the application, a tenancy agreement, a Notice to Leave together with an e-mail intimating the notice to the Respondent, a notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 together with an e-mail intimating this to the local authority and an e-mail from the Applicant instructing the service of a Notice to Leave on the Respondent in order that she leave the Property. The tribunal also had sight of an estate agency agreement dated 18th March 2024 signed by the Applicant and also signed on behalf of Bridges Properties Ltd whom he had engaged to provide estate agency services in relation to the sale of the Property.

4. The parties had entered into a private residential tenancy at the Property with effect from 3rd July 2020. The applicant who owns the Property wished to sell the Property as soon as possible because of his personal financial situation. Mrs Orr on his behalf indicated that due to the rising cost of living and the costs of being a landlord going up it was no longer viable for him to rent out the Property and he wanted to sell the Property to deal with his own personal costs. The Applicant himself told the tribunal that he wished to free up the capital in the Property due to rising costs. This was the only property he rented out and he had an interest only mortgage on it. The mortgage payments had recently increased by 33% and he was expecting them to increase further. He had tried to keep going but had to sell the Property as soon as possible and leave the rental market.

5. Mrs Orr for the Applicant indicated that the Respondent had been a good tenant and it was unfortunate that the Application had required to be raised but it was now necessary for the Applicant to sell up.

6. Miss McGregor advised the tribunal that she lives at the Property with her son aged 12. She had considered alternative private housing but the private rented sector was too expensive and she was now considering social housing as she didn't want to be in this position again. She advised that she understood that her son was on the autistic spectrum although she did not yet have a formal diagnosis for him. She was his official carer and is in receipt of carers' allowance for this role. She did not wish to oppose the granting of an order and she did not wish to suggest that it would not be reasonable to grant the order. She said that she home educates her son after having to remove him from school due to bullying. She intended to continue to home educate him. She said that he was stressed about the situation with the Property but he would be fine when she was able to tell him what was happening. She was asked how he would cope with possible temporary accommodation and she confirmed that she thought this would be alright for them, again if she explained what was happening. They had no need to stay in a particular area due to family support or the assistance of friends. She was open to moving to another area within the local authority area and described herself as quite self-sufficient. She had approached the council and had a housing officer and understood that they would receive help when she had a date when she required to leave the house.

7. The Tribunal had sight of a Notice to Leave setting out the eviction ground which was emailed to the Respondent on 20th November 2023 and this notice indicated that no application would be made to the Tribunal before 15th February 2024.

8. A notice in terms of the Homelessness etc (Scotland) Act 2003 was sent to West Lothian Council by e-mail in relation to this application on 19th February 2024.

9. There was some discussion as to how matters would move forward if an eviction order was granted and Mrs Orr indicated that in that event, if Miss McGregor advised her of the name of her housing officer, they could contact her about the date when the property might require to be vacant. Miss McGregor agreed to pass on the email address of her housing officer in the event an order was granted.

10. The Tribunal was satisfied that it had sufficient information upon which to make a decision and that the proceedings had been fair.

Findings in Fact

11. The parties entered into a tenancy agreement at the Property with effect from 3rd July 2020.

12. A notice to leave in proper form setting out the eviction ground and dated 20th November 2023 was sent by e-mail to the Respondent on that date and indicated that no application would be made to the tribunal for an eviction order before 15th February 2024.

13. A notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 was sent to West Lothian Council in relation to this application on 19th February 2024.

14. The applicant is the owner of the let property and is entitled to sell it.

15. The Applicant intends to sell the let property and consulted an estate agency firm and signed an agreement with them dated 18th March 2024 in relation to provision of estate agency services regarding the sale of the let property.

16. The Applicant intends to sell the let property for market value or at least put it up for sale within three months of the Respondent ceasing to occupy it.

17. The Applicant has only one rental property, the let property and wishes to sell it and leave the rental market.

18. The Applicant wishes to free up the capital in the Property to assist with his own costs.

19. The Applicant has an interest only mortgage over the Property and the cost of this has risen by 33% and it is no longer financially viable for him to rent out the let property.

20. The Respondent lives at the Property with her 12 year old son whom she understands is on the autistic spectrum although she has not yet received a diagnosis for him.

21. The Respondent is her son's official carer and she receives carers' allowance in order to assist him and she is also home schooling him.

22. The Respondent has made contact with the local authority and has a housing officer and has been advised that she will be assisted in seeking alternative accommodation for her and her son if she is evicted.

23. The Respondent and her son have no additional requirements in relation to a property and the Respondent is prepared to relocate to other parts of the local authority area as she does not rely on family or friends near to where the let property is situated to assist her.

24. The Respondent does not object to the order being granted and has been seeking other accommodation.

Reasons for Decision

25. The tribunal was satisfied that the appropriate procedures had been carried out in this application in terms of the Notice to Leave and the notice to the local authority. The Applicant's objective intention as regards the sale of the property was evidenced by the production of the estate agency agreement signed in March 2024 for estate agency services when the Property is sold. His subjective intention was set out by both him and his representative in that he wishes to leave the rental market as his own personal financial situation requires this and it is no longer viable for him to continue to rent the Property out due to increased costs associated with being a landlord including a 33% increase in mortgage costs. The Respondent does not oppose the order being granted and has been seeking alternative accommodation and is prepared to relocate with her son. The tribunal considered it was reasonable to grant the order, the decisive factor in this application being the Applicant's circumstances when balanced against those of the Respondent.

Decision

The Tribunal granted an eviction order in favour of the Applicant and against the Respondent in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 and that the Applicant is entitled to sell the let property, intends to sell it for market value or at least put up for sale within three months of the tenant ceasing to occupy it and the tribunal was satisfied on account of those facts that it is reasonable to grant an order.

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.

Valerie Bremner

21/8/24

Legal Member/Chair

Date