



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/24/1099

Re: Property at 195 Tweed Crescent, Dundee, DD2 4DN (“the Property”)

Parties:

Mr Tariq Rashid, 17 Wendover Drive, Frimley Surrey (“the Applicant”)

Ms Jennifer Roger, 195 Tweed Crescent, Dundee, DD2 4DN (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction on ground 1 in schedule 3 of the Private Housing (Tenancies) Act 2016.

Background

1. By application dated 6 March 2024 the applicant seeks and order for eviction relying on ground 1 (landlord intends to sell the property).
2. The following documents were lodged with the application:
 - Copy tenancy agreement
 - Section 11 notice
 - Notice to leave

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3. The applicant was represented by David Wilkie letting agent from the Property Management Company. The respondent was represented by Ms Goodson, solicitor from Dundee Law Centre.

4. Mr Wilkie sought an order for eviction He explained that the applicant is retiring from being a landlord. Mr Wilkie advised that his company had managed a few properties for the applicant over the years however these were now being sold. Mr Wilke advised that the applicant did not live locally and wanted to sell the property. He advised that some members of the applicant's family were in ill health which was also a factor in his seeking to retire from being a landlord.
5. Mr Wilkie explained that the respondent had been residing in the property since 21 December 2009. She had been a good tenant and there were no issues with her conduct as a tenant.
6. Ms Goodson stated that the respondent resided with her 4 children aged 20, 18, 15 and 13. The property was a 3-bedroom terrace and the family were overcrowded. She explained that the respondent suffered from mental health issues which had been exacerbated by the eviction process. She explained that it was important for the respondent to have stability in her housing situation. She confirmed that she had been working with the respondent to look at housing options and there had been engagement with the local authority. Ms Goodson also stated that some of the other family members required additional support and that the family as a whole required accommodation which better met their needs.

Findings in fact

7. The parties entered into a private residential tenancy agreement with a commencement date of 21 August 2019
8. The applicant is entitled to and intends to sell the property
9. In the circumstances of the case it is reasonable to grant an order for eviction

Reasons for the decision

10. Ground 1 states:

(1) It is an eviction ground that the landlord intends to sell the let property.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph

(1) applies if the landlord—

(a) is entitled to sell the let property,

(b)intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and

(c)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3)Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a)a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b)a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

11. The Tribunal accepted the evidence of Mr Wilkie that the landlord intended to sell the property. This was not disputed by the respondent.

12. In relation to whether it was reasonable to grant the order the Tribunal gave weight to the personal circumstances of the landlord and the reasons given for his decision to sell the property. The Tribunal took into account that the property was unsuitable for the needs of the respondent and her children and that the family were actively seeking alternative accommodation. The Tribunal took into account that there was an active local authority housing application which may provide alternative accommodation at the end of the current tenancy.

Decision

The Tribunal determined to grant an order for eviction.

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.

Mary-Claire Kelly

Legal Member/Chair

3 September 2024

Date