



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/24/0060

Re: Property at 154 Chapelhill Mount, Ardrossan, KA22 7ND (“the Property”)

Parties:

Mrs Heather Frew, 77 Montfode Drive, Ardrossan, KA22 7PQ (“the Applicant”)

Ms Hayley Morrison, 154 Chapelhill Mount, Ardrossan, KA22 7ND (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Leslie Forrest (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. By application dated 4 January 2024 the applicants seek an order for possession relying on ground 1 (landlord intends to sell).
2. The following documents were lodged with the application:
 - Copy tenancy agreement
 - Section 11 notice
 - Notice to leave and proof of service
 - Copy correspondence between parties

Case management discussion (“cmd”) – 4 September 2024 – teleconference

3. The applicant Heather Frew was in attendance with Craig Scott, Property Manager from Rentlease. The respondent was not present or represented. The Tribunal was satisfied that the respondent had been served with the papers and had received proper notice in terms of rule 24.1. The Tribunal proceeded with the cmd in the absence of the respondent in terms of rule 29.
4. Ms Frew confirmed that she appeared on behalf of both applicants. She explained that her husband is suffering from a serious illness. Ms Frew confirmed that the tenancy commenced on 31 July 2018. Ms Frew stated that she had bought the property as an investment to assist with her retirement plans. The property had been purchased for £28,000. Ms Frew stated that the respondent had not paid any rent in the property for 18 months apart from one payment of £150. The monthly rent due is £495 which meant that the outstanding arrears amounted to approximately £8900. Mr Scott advised that the tenant had not given any explanation for her failure to pay the rent. He confirmed that there had from time to time been issues with gaining access to the property however he had recently accessed the property for an inspection. He advised that the tenant had maintained the property in a reasonable condition.
5. Mr Frew stated that she had now reached retirement age. Due to her husband's illness and the conduct of the tenant in failing to pay the rent she wished to sell the property so that she could use the money towards her retirement and no longer have the stress of being a landlord. Ms Frew advised that she had engaged Mr Scott to market the property for sale and it was her intention that the property be sold as soon as possible.
6. Ms Frew stated that as far as she was aware the respondent resided in the property with her partner and adult daughter.

Findings in fact and law

7. Parties entered into a private rented tenancy agreement with a commencement date of 31 July 2018.
8. The applicants are the joint owners of the property.
9. The applicants intend to sell the property.
10. It is reasonable to grant an order for eviction

Reasons for the decision

1. 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.

2. The Tribunal took into account the written representations and documents lodged together with oral representations at the cmd. The respondent lodged no opposition to the application.
3. The Tribunal found Ms Frew to be straightforward and truthful in her response and accepted her evidence in its entirety.
4. The Tribunal accepted that the applicants intended to sell the property as soon as possible.
5. In relation to whether it was reasonable to grant the order the Tribunal gave weight to the personal circumstances of the applicants and the reasons given for their decision to sell the property. The Tribunal took into account that the respondent had built up a large amount of arrears which had an ongoing financial impact on the applicants and was a source of stress. The Tribunal also took into account the poor health of Mr Frew and the fact that Ms Frew was at

retirement age and no longer wished to be a landlord. This position seemed reasonable.

6. The Tribunal gave significant weight to the fact that the respondent had taken no steps to oppose the application. Taking the above factors into account the Tribunal was persuaded that on balance it was reasonable to grant an order for eviction in favour of the applicants.

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.

Legal Member:

Mary-Claire Kelly

Date: 04 September 2024