



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

Chamber Ref: FTS/HPC/EV/24/1337

Re: Property at 43 Almswall Road, Kilwinning, KA13 6BL (“the Property”)

Parties:

CWDA Limited, 11 Jamaica Street, Paisley, PA15 1XX (“the Applicant”)

Miss Andrea Brown, 43 Almswall Road, Kilwinning, KA13 6BL (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant.

Background

1. The Applicant seeks an eviction order in terms of Section 51 and Ground 1 of schedule 3 of the 2016 Act. A copy of the application was served on the Respondent and the parties were advised that a CMD would take place on 28 August 2024 at 2pm.
2. The CMD took place on 28 August 2024. The Applicant was represented by Mrs Gallagher. The Respondent did not participate.

Summary of Discussion

3. Ms Gallagher told the Tribunal that the Applicant intends to sell the property, and does not intend to continue in this line of business. It is one of only two properties that she manages for them. The property is already on the market, but the Applicant has been unable to sell it with a sitting tenant.

4. In response to questions about the Respondent, Ms Gallagher told the Tribunal that she had a phone call from Ms Brown on Monday. She has been offered a property by the Local Authority, but it won't be available for about 28 days as the current tenant is still to move out and it needs some repairs to be carried out. Ms Gallagher also advised the Tribunal that the Respondent has health problems, and the property is unsuitable for her as it is an upper flat and she cannot now manage the stairs. She understands that the Council have expedited her application because of this, and she has had some contact from the Council which confirms this. She stated that the Respondent is in receipt of benefits and there are no rent arrears or other tenancy related issues

Findings in Fact

5. The Applicant is the owner and landlord of the property.
6. The Respondent is the tenant of the property.
7. The Applicant wishes to sell the property and their efforts to sell it with a sitting tenant have been unsuccessful .
8. The Respondent is in ill health and has mobility problems. The property is not suitable for her needs, and she has been offered alternative accommodation by the Local Authority.
9. The Applicant served a Notice to leave on the Respondent 19 December 2023.

Reasons for Decision

10. The application was submitted with a Notice to Leave dated 19 December 2023, together with a copy of an email to the Respondent which establishes that the Notice was sent to her on the same date. The Notice states that an application to the Tribunal is to be made on ground 1, landlord intends to sell the let property.
11. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice which was sent to the Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
12. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."

13. Ground 1 of schedule 3 (as amended) 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.”
14. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Applicant intends to sell the property and that ground 1 is established.
15. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -
- (a) The Applicant intends to sell the property as they no longer want to be a private landlord.
 - (b) The Applicant has endeavoured to sell the property with the Respondent in occupation, without success.
 - (c) The Respondent has health and mobility issues and has been offered a more suitable property by the Local Authority. She hopes to move to the new accommodation once it is ready for occupation.
16. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act that ground 1 has been established. For the reasons outlined in paragraph 15, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

17. The Tribunal determines that an eviction order should be granted against the Respondent.

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.

Josephine Bonnar, Legal Member

28 August 2024