



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/24/1108

Re: Property at 27 Pilton Drive, Edinburgh, EH5 2HH (“the Property”)

Parties:

Mr Robert Cunyngham-Brown, Moidart Cottage, Blinkbonny Road, Currie, Edinburgh, EH14 6AG (“the Applicant”)

Ms Patricia O'Donnell, 27 Pilton Drive, Edinburgh, EH5 2HH (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order.

Background

[2] The Applicant seeks an Eviction Order under ground 1A of Schedule 3 of the Act. The Application is accompanied by a copy of the tenancy agreement and the notice to leave with proof of service. The relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 is also produced.

The Case Management Discussion

[3] The Application called for a Case Management Discussion (CMD) by conference call at 2 pm on 4 October 2024. The Applicant was personally present along with his representative, Ms Callaghan of TC Young. There was no appearance by or on behalf of the Respondent. The Application had been competently served on the Respondent by Sheriff Officers. The Tribunal therefore decided to proceed in the Respondent's absence. Ms Callaghan had no preliminary matters to raise.

[4] The Tribunal discussed the Application with Ms Callaghan and also directly with the Respondent. The Applicant's mortgage over the Property had expired and the Applicant had no other means to repay the sums or refinance the mortgage. The Applicant also had tax liabilities and personal debts which he required to settle from funds to be released from the sale. The Applicant claims to have limited income from self-employment as a farmer and some referral fees relating to his previous time in financial services. Additionally, the Applicant had to sell his other buy to let property to repay debts and is currently living in rented accommodation with his wife, who is also self-employed and in receipt of welfare benefits and their 3 children.

The Respondent was thought to live in the Property along with an adult child and has been the tenant since before the applicant purchased the property in 2007. She is known to have taken legal advice before about her housing rights. There are currently rent arrears of over £3,000 on the rent account. Other than that, there was no information about the Respondent and certainly nothing which suggested any reason as to why it would be unreasonable to grant the order. Having heard from parties, and following a short adjournment, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The Applicant let the property to the Respondent by virtue of a Private Residential Tenancy Agreement within the meaning of the Act;*
- II. *The Applicant now wishes to sell the Property to alleviate financial hardship. The Applicant requires to repay the mortgage over the Property and has no other financial means to do so or any other means of refinancing the mortgage;*
- III. *The Applicant has competently served a notice to leave under ground 1A on the Respondent;*
- IV. *The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003;*

Reasons for Decision

[5] Having made the above findings in fact, the Tribunal considered that ground 1A of Schedule 3 of the Act was established and that it was reasonable to make an Eviction 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.

Andrew McLaughlin

Legal Member/Chair

4 October 2024

Date