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 (Act)

Chamber Ref: FTS/HPC/EV/24/1047

Re: Property at 2/2 46 Pleasance Street, Glasgow, G43 1SW ("the Property")

Parties:

Mr Aleksandar Kocic, Jelena Milicev, 2/1 29 Bellshaugh gardens, Glasgow, G12 0SA ("the Applicant")

Mr Younis Ali, 2/2 46 Pleasance Street, Glasgow, G43 1SW ("the Respondent")

Tribunal Members:

Alan Strain (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application for eviction and recovery of possession be granted.

This is an application under Rule 109 and section 51(1) of the Act in respect of the Applicants' intention to sell the Property and for eviction and recovery of possession on Ground 1 of Schedule 3 to the Act.

The Tribunal had regard to the following documents lodged in advance of the Hearing:

1. Application received 4 March 2024;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 16 January 2021;
3. Notice to Leave dated and served by email on 3 December 2023;
4. Section 11 Notice and email serving on local authority dated 4 May 2024;
5. Confirmation of instruction of estate agents dated 1 March 2024;
6. Sheriff Officer certificate of service of CMD Notification on 19 August 2024.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 17 September 2024. The Applicants participated. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate but he did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that he should attend and the Tribunal could determine the matter in absence if he did not.

The Applicants informed the Tribunal that they had 3 Properties including this Property which they rented out. They intended to sell 2 of the Properties to help them fund their own home.

They had a mortgage and other costs in respect of this Property.

The Applicants confirmed that the Respondent lived in the Property alone and was in employment. As far as they were aware he had no disabilities or vulnerabilities. The amount of arrears had increased and no payments of rent had been made since 30 April 2024 when the last statement was issued to the Tribunal.

Decision and Reasons

The Tribunal considered the oral and documentary evidence from the Applicants.

Having heard from them the Tribunal had regard to the terms of Ground 1:

Landlord intends to sell

1(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.

In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 16 January 2021;
2. Notice to Leave had been served on 3 December 2023;
3. Section 11 Notice had been served on the local authority on 4 May 2024;
4. The Applicants are the owners of the Property and intend to sell it or at least put it up for sale within 3 months of the Respondent ceasing to occupy it;
5. The Applicants have instructed estate agents to market and sell the Property;
6. The Applicants requires to recover possession of the Property to sell it and realise the capital for their own home;
7. The Applicants had mortgage, insurance and other costs in respect of the Property;
8. The Respondent was in arrears of rent in the sum of £4,527.50 as at 30 April 2024 and had not paid any rent since then.

The Tribunal considered all of the evidence and submissions.

The Tribunal were satisfied that Ground 1 had been established and complied with.

The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal determined that it would be reasonable to grant the order sought in the circumstances.

The Respondent lived in the Property on his own, was in employment and had significant rental arrears which were increasing.

The Applicants needed to sell the Property to realise the capital for their own home. They had a mortgage and other costs in respect of the Property.

The Tribunal determined that it was reasonable in the circumstances to grant the application for eviction and recovery of possession.

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.

Alan Strain

17 September 2024

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Legal Member/Chair   **Date**