



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

Chamber Ref: FTS/HPC/EV/24/0288

Re: Property at 28 Beech Avenue, Garrowhill, Glasgow, G69 6LF (“the Property”)

Parties:

Church of Scotland General Trustees for Congregation, Church & Parish of Mure Memorial, 6 Maxwell Avenue, Garrowhill, Glasgow, G69 6HX (“the Applicant”)

Mr Umair Sheikh, Mr Gulraze Sheikh, Mrs Rahila Sheikh, Mrs Aroosa Sheikh, 28 Beech Avenue, Garrowhill, Glasgow, G69 6LF (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent(s) for eviction of the Respondent(s) from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 7 under schedule 3 to the said Act.

- Background
- 1. An application was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of the Property being required for use in connection with the purposes of a religion, being Ground 7 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).
- Case Management Discussion

2. A Case Management Discussion (“CMD”) took place on 20 September 2024, by teleconference. The Applicant was represented by Alison Spence, Lettings Manager at McTurk and Muir Lettings Limited. Mr Umair Sheikh, Mrs Rahila Sheikh and Mrs Aroosa Sheikh were present. Mr Umair Sheikh spoke on behalf of the Respondents. The tribunal was advised that Mr Gulraze Sheikh sadly passed away in January 2024.
3. A Notice to Leave had been served on the Respondents on the basis of Ground 7 of Schedule 3 to the 2016 Act, on 18 August 2024. An extension to the deadline for removal was given to the Respondents, extending to 15 January 2024. The Respondents remain in the Property.
4. The Applicant’s representative submitted that the Applicant sought the order for repossession of the Property, as said Property is now required for the residence of the minister for the local church. It was submitted that the Applicant has tried to assist the Respondents in finding alternative accommodation but due to the size of accommodation required, this has been unsuccessful. It was submitted that there are three adults and three young children residing in the Property. The Property comprises 4 bedrooms, two public rooms, kitchen, downstairs toilet and upstairs bathroom.
5. The Applicant’s representative submitted that the minister is currently residing in temporary accommodation provided by the church and which is located approximately 10 minutes’ drive away from the church. The Applicant’s representative was not aware of whether or not the minister had any family residing with them and confirmed that this is a new appointment and the church did not have a minister prior to now.
6. The Respondents submitted that Mr Gulraze Sheikh passed away in January 2024 and they were unable to move out of the Property during that difficult time. They have been looking everywhere for alternative accommodation and have applied to different local authorities. It was submitted that the Respondents have never missed their rent and have lived in the Property for approximately 6 years. The children attend the local school and are aged 3, six and seven years old. The adults within the property are aged 34, 38 and 65 years old, being Mr Shiekh, his wife and his mother. Mr Sheikh’s mother has recently suffered a heart attack and is still recovering. She also suffers from other health conditions which mean that she requires a ground floor property. It was submitted that the Respondents have looked into alternative accommodation in the private rented sector but it is far too expensive, as they need a four-bedroom property. The Property is unfurnished and therefore they require to move all of their furniture as well. Mr Sheikh confirmed that he works in Glasgow City centre. Mr Sheikh confirmed that he has been given high priority on the housing list by the local authority but they have advised that they are unable to provide a suitable property at the moment.
7. The following documents were lodged alongside the application:
 - (i) Copy Private Residential Tenancy Agreement
 - (ii) Copy Notice to Leave

- (iii) Proof of service of the Notice to Leave by recorded delivery
- (iv) Section 11 notification to the local authority under the Homelessness etc. (Scotland) Act 2003
- (v) Correspondence between the Church and the new Minister

- Findings in Fact

8. The Tribunal made the following findings in fact:

- (i) The Applicant is the heritable proprietor and landlord of the Property;
- (ii) The Applicant and the Respondents entered into a Private Residential Tenancy Agreement which commenced on 3 May 2018;
- (iii) The Applicant requires the Property back for use in connection with the purposes of a religion, namely to house a new minister for the local church;
- (iv) The Applicant has served a Notice to Leave on the Respondents on the basis of Ground 7 of Schedule 3 to the 2016 Act;

- Reasons for Decision

9. The Tribunal was satisfied that the terms of Ground 7 of Schedule 3 to the 2016 Act had been met, namely that the Property is required by the Applicant for the housing of the new minister to the local church. The Tribunal was satisfied that a Notice to Leave had been served on the Respondents and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act.

10. The Tribunal considered the difficult circumstances of the Respondents and noted that they would require a four-bedroom property to accommodate the three adults and three children, and that such a size of property may not be particularly easy to find in the social rented sector. Whilst the Tribunal noted the Respondents' submissions that they did not want to move the children from their current school, the Tribunal took into account the ages of the children and the fact that they are of primary school age and therefore not nearing exams when disruption could cause significant detriment.

11. The Tribunal noted that the minister is currently residing in temporary accommodation provided by the church and that there was no indication that said temporary accommodation was urgently required back by the church for another purpose at this time. It was also noted that that temporary accommodation is a short drive from the church, and therefore the Tribunal considered that the minister requiring to remain in that temporary accommodation for an extended period should not cause significant detriment to them in the short term, when balancing the needs of the Respondents. The Tribunal was satisfied that when balancing the needs and requirements of each party, it was reasonable under the circumstances to grant the order as sought but with an extension to the period within which the order would be enforceable. This would give the Respondents additional time to liaise with the local authorities to obtain alternative accommodation and to be able to get their own affairs in order. The Tribunal was accordingly satisfied that in all the

circumstances, it would be reasonable to grant the order, with an extended period of time before it could be enforced of 60 days.

- Decision

12. The Tribunal granted an order against the Respondents for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 7 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

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/Chair

Date: 20 September 2024

F. Watson