



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/23/4415

Re: Property at 72 Western Road, Cambuslang, Glasgow, G72 8EG (“the Property”)

Parties:

Mr Tony McCrear, 7 Springbank Court, Glasgow, G31 4PY (“the Applicant”)

Miss Emma McLaren, 72 Western Road, Cambuslang, Glasgow, G72 8EG (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Tony Cain (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought to evict the Respondent from the property.

Background

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondent from the property.
2. A case management discussion (“CMD”) took place on 30 May 2024. The Tribunal issued a note summarising that discussion, along with a notice of direction, on 30 May 2024.
3. On 20 September and 3 October 2024, the Tribunal received further written representations from the Applicant.

The hearing – 4 October 2024

4. The Hearing proceeded by conference call on 3 October 2024. The Applicant joined the call and was represented by Mr. John Jarvie, solicitor. The Respondent joined the conference call and represented herself. She was supported by Miss Joanna Sykes. The Tribunal explained that both parties would be given an opportunity to lead any evidence they considered relevant in relation to the present application. The Tribunal indicated that from the material already submitted, it appeared that the issue between the parties was whether it was reasonable to grant the order for possession of the Property. The Applicant's representative confirmed that the statement of the Applicant which had been lodged should be treated as his evidence in chief. The Respondent cross examined the Applicant and then gave evidence herself. The evidence given is summarised below. The summary is not a verbatim account of what was said at the Hearing but rather an outline of the matters relevant to the Tribunal's consideration of the application.

Mr Tony McCrear

5. The Respondent erected a fence and keeps a dog in the Property and did not seek permission for either. That however, is not a big issue. There was a problem with the rent account and the Respondent accrued arrears of rent. Although the rent arrears were paid and the rent account is up to date, this was one of the reasons the Applicant decided he wanted to sell the Property. The Applicant is also aware that windows need to be replaced in the Property and he is worried about the maintenance costs. The repayments on the interest only mortgage are currently £95 but the Applicant has been told by his mortgage broker that when the current mortgage term expires, the cost is likely to increase to £350 per month. The Applicant wishes to cease activity as a landlord.

Miss Emma McLaren

6. The Respondent has been in contact with Shelter Scotland for advice and has been told to contact them after today's hearing. The Respondent is registered on the local authority's housing list but no alternative accommodation has been identified for her. She has been offered accommodation at the Eva Burrows hostel in Cambuslang but does not consider that suitable for her and her family. She has registered with a number of housing associations for alternative accommodation. The Respondent does not want to continue living in the Property but does not have anywhere to go. She does not oppose the application but wanted more time to allow her to find suitable accommodation.

Submissions

7. The Applicant is sympathetic to the Respondent's position. If the Tribunal was minded to grant an order for eviction, he was prepared to delay the execution of an eviction to February 2025.

8. The Tribunal adjourned briefly to consider the evidence and submissions made by the parties. The Tribunal explained that it found that the ground for eviction had been established and that it was reasonable to grant the order. The Tribunal also explained that it exercised its discretion in terms of section 216(4) of the Bankruptcy and Diligence Etc (Scotland) Act 2007 and extended the period of charge specified in section 216(1) of the Act to 14 February 2025.

Findings in Fact

9. The Applicant is the owner and landlord of the Property at 72 Western Road, Cambuslang, Glasgow, G72 8EG.
10. The Applicant is entitled to sell the Property.
11. The Respondent is the tenant of the Property at 72 Western Road, Cambuslang, Glasgow, G72 8EG. She lives there with her two children, aged 13 and 6.
12. The tenancy in question is a private residential tenancy which commenced on 20 June 2020.
13. The Applicant served Notice to Leave on the Respondent by email on 11 July 2023.
14. On 8 December 2023 the Applicant applied to the Tribunal for an order for possession based on the operation of section 33 of the Housing (Scotland) Act 1988.
15. On 8 December 2023 the Applicant notified the local authority of those proceedings by serving a "section 11 notice" to South Lanarkshire Council.
16. The Applicant intend to sell the Property.

Reason for Decision

17. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicant relied upon ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondent did not oppose the application for eviction, but she sought further time to find alternative accommodation. The Applicant was willing to delay execution of any order until February 2025. The Tribunal was satisfied that ground 1 was established and that it was reasonable to grant the order. The Tribunal exercised its discretion and extended the period of charge to 14 February 2025.

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.

Nicola Irvine

4/10/25

Legal Member/Chair

Date