



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/24/1952

Re: Property at 3/26 Drybrough Crescent, Edinburgh, EH16 4FD (“the Property”)

Parties:

Mrs Julie Rea, Mr John Rea, 4 Manor Gardens, Blairgowrie, PH10 6JS (“the Applicants”)

Ms Catriona Scully, 3/26 Drybrough Crescent, Edinburgh, EH16 4FD (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- Background

This is an application for an eviction order against the Respondent, who occupies the Property in terms of a private residential tenancy agreement with the Applicants. It called for a case management discussion (‘CMD’) at 2pm on 3 October 2024, by teleconference. The Applicants were represented on the call by Ms Lloyd of ESPC. The Respondent was represented by Mr Doneghan of Edinburgh Housing Advice Partnership.

- Reason for the Decision

1. The Respondent's representative indicated that she conceded that Ground 5 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 ('the Act') was satisfied and that she consented to an eviction order. She requested, however that enforcement of the order be suspended for 3 months; since this would allow her an opportunity either to source a private tenancy, or to benefit from the enhanced priority the order would give her to find a tenancy in the social housing sector, without enduring the stress and disruption of temporary homelessness. This was particularly relevant to her circumstances, it was submitted, since she has a son now just starting S5.
2. In response, the Applicants' representative stated that her second-named client had in fact now passed away. The ground for the order was that the Applicants' daughter intended to move into the Property. This decision had originally been made in January 2024, when the notice to leave was served. The Applicants' daughter had moved in with them around that time, along with her husband, to support her mother and father through her father's terminal illness; but she had, since her father's death, now been unable to move out again. This was causing her significant upset, at an already difficult time. Any suspension applied to the order would therefore be opposed.
3. Neither party sought to challenge the factual basis set out by the other to support their opposing positions in relation to the question of whether or not the order should be made subject to any suspension in its enforcement. The Tribunal therefore felt able to make a decision based on what it had heard at the CMD.
4. The Tribunal considered that the order should be granted and execution suspended to 6 December 2024. It considered that there was weight to the Respondent's position that a month's delay in enforcement would not be sufficient to avoid having to move to temporary accommodation and accepted that this would have a particular impact on her son at a crucial point in his schooling. However, it felt that this concern would be adequately addressed

by delaying enforcement by two months; and an order to that effect would also allow the Applicants' daughter to move into the Property prior to the Christmas period, mitigating the impact on her.

- Decision

Eviction order granted, such order not to be enforced any earlier than 6 December 2024.

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.

Nairn Young

Legal Member/Chair

Date 3 October 2024