



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/EV/24/2206

Re: Property at 0/2, 4 Silverbanks Gait, Cambuslang, Glasgow, G72 7FL (“the Property”)

Parties:

Mr John Warnock, 76 Byne Road, Sydenham, London, SE26 5JD (“the Applicant”)

Mr Jordan Mills, Ms Shelley McHugh, 0/2, 4 Silverbanks Gait, Cambuslang, Glasgow, G72 7FL (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

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

BACKGROUND

1. By Lease dated 15th June 2021 the Applicant let the Property to the Respondents.
2. On 13th February 2024, a Notice to Leave was intimated upon the Respondents, the Notice to Leave stating that vacant possession was requested as the Applicant intended to sell the Property.
3. A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority.

4. On 14th May 2024 an application was presented to the Tribunal seeking an order for eviction.
5. Documentation was provided by way of communication between the Applicant and an estate agent confirming the intention to sell the Property once vacant possession was obtained.

THE CASE MANAGEMENT DISCUSSION

6. The Applicant did not participate personally in the case management discussion but was represented by Mr A Cassidy of Messrs Mitchells Robertson Solicitors. The First Respondent did not participate in the case management discussion. The Second Respondent participated personally. She advised that Mr Mills, in fact, has already vacated the premises and no longer resides there. On the basis, however, that the proceedings had been formally intimated to Mr Mills the Tribunal determined that it was appropriate to proceed in his absence.
7. Mr Cassidy moved the Tribunal to grant an eviction order.
8. Miss McHugh initially stated that she was opposed to an order being granted. Upon further exploration of her position, however, she confirmed that she was simply concerned about the timescale within which any eviction would take effect. She was under the misapprehension that if an eviction order was granted, she would become homeless within a period of seven days or so.
9. She advised that she felt she had been treated unfairly by the Applicant. She believed he had failed in what she referred to as his duty of care towards her and had failed to carry out work required at the Property. She had been advised by the letting agents that he did not have sufficient funds to carry out the work. She ultimately required to have work done to the Property herself, at significant expense and she was not happy about that.
10. When asked by the Tribunal if she accepted the basis upon which the application was made – that the Applicant intended to sell the Property – she advised that she didn't dispute that he intended to sell it but thereafter stated that she was not entirely certain about that. Her doubt arose from the fact that, apparently, the Applicant first said he intended to sell the Property approximately one month after she had complained about the repairs being needed. A contractor had come out, priced up the cost of the works, said he would get back to her but the next she heard was that the Applicant could not afford the repairs. The repairs required were to resolve a leak within the ensuite bathroom at the Property which became worse every time the shower was used and was causing a further problem with the main bathroom below.
11. She advised that she was in arrears of rent. The arrears were currently in the region of £5,500.00. She explained, however, that these arose due to the fact

that she had advised the Landlords that she intended withholding rent until the repairs were effected. The repairs were ultimately undertaken by her, after borrowing money from family members. The amount of the rent arrears was more or less equivalent to the cost of the repairs. The repairs cost approximately £5,700.00. As she understood it, the Applicant had now applied to the local authority for her benefit payments to be paid directly to the landlord and she had no difficulty with this going forward.

12. She has already been in contact with the local authority. They advised her that it will take many months to source appropriate housing for her and they may require to make arrangements for her son to be schooled elsewhere until she is allocated her own tenancy.
13. She lives at the Property with her 7-year-old son. As indicated previously, the former co-tenant has vacated the premises some time ago.
14. In responding to those comments Mr Cassidy advised that he was limited in what he could say as he had recently inherited this file within his office from a colleague. His instructions have come from the letting agents rather than the Applicant direct. His understanding, however, is that the Applicant has one other property which is rented also. He intends to sell both properties for financial reasons. Mr Cassidy understands it to be the case that the Applicant is unable to afford the cost of repairs to the properties and that has influenced his decision to sell.
15. Miss McHugh, once she appreciated that any eviction order would not be enforceable immediately, confirmed that she would be willing to consent to an eviction order if the date of enforcement was deferred, affording her time to engage with the local authority with a view to being allocated appropriate accommodation. From her engagement with the local authority she expects that they would be in a position to offer her something suitable perhaps by February 2025. Her intention is to secure local authority accommodation rather than a private let as the cost of deposits for privately rented accommodation is prohibitive.
16. The Tribunal enquired with Mr Cassidy whether there would be any difficulty if an eviction order was to be granted with an enforcement date being deferred until 31st January 2025. Mr Cassidy confirmed that, being pragmatic about matters, and appreciating the personal issues raised by the Respondent, there would be no opposition should the Tribunal decide such. Miss McHugh confirmed that if any eviction was deferred until the end of January that should afford her ample time to secure alternative accommodation and she would not oppose such an order.
17. In the circumstances, having regard to what was now an agreed position between the parties, the Tribunal granted an eviction order, deferring the date of enforcement until 31st January 2025.

DECISION

The Tribunal granted an order against the Respondents for eviction of the Respondents from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 of Schedule 3 to said Act.

Order not to be executed prior to 12 noon on 31 January 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.

Virgil Crawford

14 October 2024

Legal Member/Chair

Date