



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

Chamber Ref: FTS/HPC/EV/24/2320

Re: Property at Flat 12, 10 East Pilton Farm Crescent, Edinburgh, EH5 2GH (“the Property”)

Parties:

Pepper (UK) Limited, Harman House, 1 George Street, Uxbridge, London, UB8 1QQ (“the Applicant”)

Mr Craig Murray, Flat 12, 10 East Pilton Farm Crescent, Edinburgh, EH5 2GH (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 2 – lender intends to sell the property. Enforcement of eviction is delayed until 7 January 2025 under rule 16A.

Background

1. By application dated 8 February 2024 the applicant seeks an order for eviction, relying on ground 2 – lender intends to sell the property.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Email to the respondent with Notice to Leave and Guidance dated 19 January 2024
 - Extract decree for possession granted 2 November 2023.

- Form BB
 - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003.
3. A case management discussion (“cmd”) was assigned for 7 October 2024.

Case management discussion – 7 October 2024- teleconference

4. The applicant was represented by Mr Taylor, from Morton Fraser Macroberts solicitors. Mr Taylor had been instructed to appear on an agency basis by the applicant’s solicitor’s Yuill & Kyle. The respondent attended on his own behalf.
5. Mr Taylor sought an order for eviction. He stated that decree of repossession had been granted in favour of the applicant on 2 November 2023. The applicant sought vacant possession in order to sell the property. The respondent had been aware of the repossession proceedings for a considerable period. In particular he had been served with a Form BB in June 2023. He had also been emailed a notice to leave on 19 January 2024. The paperwork being in order, Mr Taylor submitted that it was reasonable that an order for eviction be granted.
6. Mr Murray stated that he did not oppose an order for eviction being granted. He stated that he sought some extra time in order to secure alternative accommodation. Mr Murray stated that he had been self employed as a property analyst and had recently secured employment. He stated that being self employed was a barrier to securing a tenancy due to the requirement to produce proof of earnings however he was confident that he could secure a new tenancy with a few months as he was now in regular employment. He stated that he was in a position to pay a monthly rent similar to the rent in the property and requested a 3 month deferment in the decree being enforced. He stated that this period would afford him a reasonable opportunity of securing alternative accommodation. Mr Murray stated that he had been confused in relation to the process for obtaining eviction. In particular, whilst he accepted that a notice to leave had been served by email in January 2024 he stated that he had not checked his emails and had been unaware of the notice until the present application had been raised.
7. The Tribunal heard from Mr Taylor in relation to the request to delay execution of the order. Mr Taylor stated that the respondent had not paid any rent since the applicant had obtained decree for repossession. This should mean that the

respondent had a sum of money which may assist him to secure new accommodation. Mr Taylor took a pragmatic approach and noted that the alternative of fixing a hearing may result in a delay in enforcement.

Findings in fact and law

1. The respondent entered into a tenancy agreement in respect of the property with a commencement date of 28 April 2023.
2. Monthly rent due in terms of the agreement is £1250.
3. Decree of repossession was granted in favour of the applicant on 2 November 2023.
4. The applicant intends to sell the property.
5. The respondent does not object to an eviction order being granted.
6. Ground 2 in schedule 3 of the 2016 Act has been established.

Reasons for the decision

7. The Tribunal had regard to the application and the documents lodged by the applicant. The Tribunal also took into account Mr Taylor and Mr Murray's submissions at the cmd.
8. The Tribunal noted that the respondent did not oppose the order being sought. The Tribunal accepted the information provided by the applicant as true and accordingly found it reasonable to grant an order based on ground 2.
9. In relation to the delay in execution – the Tribunal heard from parties and was persuaded that it was reasonable to afford the respondent an additional 2 months to find alternative accommodation . The Tribunal took into account that the respondent's conduct was not a factor in the eviction action. The Tribunal accepted that the respondent had changed his employment from self-employment in order to secure a new property. The Tribunal also took into account that had the respondent defended the action and sought a hearing there would likely have been an extended period before the case was determined. In the circumstances the Tribunal determined that delaying execution until 7 January 2025 in terms of rule 16A was reasonable.

Decision

The Tribunal determined to grant an order for eviction with execution delayed until 7 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.

Mary-Claire Kelly

Legal Member/Chair

7 October 2024 _____
Date