



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/24/1623

Re: Property at 1 Ross Drive, Airdrie, ML6 9TX (“the Property”)

Parties:

Dr William Johnston, Mrs Megan Johnston, 17 Cornmill, Kells, Ballymena, County Antrim BT42 3QA; 17 Cornmill, Kells, Ballymena, County Antrim, BT42 3QA (“the Applicant”)

Miss Emily Docherty, Mr Ryan Blackburn, 1 Ross Drive, Airdrie, ML6 9TX (“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 relying on ground 1 (landlord intends to sell) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

1. By application dated 9 April 2024 the applicants seek an order for eviction on the grounds that they intend to sell the property.
2. The applicants lodged the following documents with the application:
 - Copy tenancy commencing 1 May 2021
 - Notices to leave dated 19 December 2023 together with proof of service
 - Terms of Business from Complete Clarity Solicitors re conveyancing and sale dated 19 December 2023

- Terms of Business from Colin Tomney Estate Agents dated 15 December 2023
 - Section 11 letter dated 8 April 2024
3. A case management discussion (“cmd”) was assigned for 8 October 2024

Case management discussion – 8 October 2024- teleconference

4. Dr Johnston was in attendance with his solicitor, Ms Hamilton from Clarity Simplicity Ltd. Both respondents were in attendance.
5. Ms Hamilton sought an order for eviction relying on ground 1 in schedule 3 of the 2016 Act – the landlord intends to sell. She referred to the documents that had been submitted with the application and stated that proper notice had been given to the respondents. She stated that the applicants had purchased the property while living and working in Scotland. They had now returned to live in Northern Ireland and required to sell the property in order to buy a family home there. She referred to the terms of business which had been lodged as evidence of the applicants’ intention to sell the property.
6. Both respondents confirmed that they did not seek to oppose an order being granted. Ms Docherty explained that the respondents resided with their 2 young children. They had sought advice from the local authority and they hoped to find alternative accommodation from the local authority at the conclusion of the present process.

Findings in fact and law

7. Parties entered into a private rented tenancy agreement with a commencement date of 1 May 2021.
8. The applicants are the owners of the property.
9. The applicants intend to sell the property.
10. The respondents do not oppose the application for an order under ground 1 in schedule 3 of the 2016 Act.
11. It is reasonable to grant an order.

Reasons for the decision

12. Ground 1 states:

(1) It is an eviction ground that the landlord intends to sell the let property.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph

(1) applies if the landlord—

(a) is entitled to sell the let property,

(b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

13. The Tribunal took into account the written application and documents which had been lodged by the applicants as well as Ms Hamilton's oral representations at the cmd. Based on the evidence provided the Tribunal accepted that the applicants intend to sell the property. This was not disputed by the respondents.

14. The respondents did not oppose the order for eviction being granted and made no objection to the reasonableness of the order being granted.

15. In the circumstances the Tribunal determined that ground 1 had been established and that it was reasonable to grant an order.

Decision

The Tribunal determined to grant an order for eviction.

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

8 October 2024

Date

Legal Member/Chair