



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/24/1884

Re: Property at 33 Sclattie Place, Bucksburn, Aberdeen, AB21 9QB (“the Property”)

Parties:

Mrs Lynn Brown, Holmhead Farm, Bucksburn, Aberdeen, AB21 9SR (“the Applicant”)

Miss Paula Gordon, 33 Sclattie Place, Bucksburn, Aberdeen, AB21 9QB (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 23rd April 2024. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 12th September 2024, all parties were written to with the date for the Case Management Discussion (“CMD”) of 16th October 2024 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 3rd October 2024.

3. On 16th September 2024, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 16th September 2024.

The Case Management Discussion

4. A CMD was held on 16th October 2024 at 2pm by teleconferencing. The Applicant was present and represented herself. Mr Sandy Brown, the Applicant's husband, was also present. The Respondent was not present and not represented. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD.
5. The Applicant said that she can no longer afford the Property. The mortgage has risen over the years. Currently the Applicant pays £780 per month on the mortgage. As the rent is £650 there is a shortfall each month. This is exasperated as the Respondent is not paying the ongoing rent which is causing further financial difficulty. There was a 6 month interest only payment to reduce costs but this ended in September 2024. For that time the mortgage payments were £515 per month. It is no longer viable for the Applicant to let the Property. She now wishes to sell it. She said that she has three other properties but they are covering the mortgage charges on the properties. She is not intending to sell any of those properties.
6. The Applicant said that she has not heard from the Respondent in a couple of months. She was surprised that there had been a payment in September 2024 as there has been no other payments this year. The arrears now stand at £7650. The Applicant said that she does not know if the Respondent is still working or not though there are no DWP payments being made. The Applicant said that the Respondent had been working as a carer and may still be doing so. The Applicant said that the Respondent lives in the Property with her three children who are aged 16, 15 and 12 or 13 years old. The Applicant said that there are no known disabilities or health conditions in the family.
7. The Applicant said that she understands that after the Notice to Leave was served that the Respondent contacted her local authority housing department and was told that she would not be rehoused until an order for eviction order was granted against her. She received a reference request from Aberdeenshire Council in January or February of this year regarding housing allocation.
8. The Applicant wants an order for eviction so that she can sell this property.
9. The Tribunal consider that it was reasonable to grant an order for eviction given the information that the Applicant has explained to it.

Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 1st December 2018.
11. The Respondent persistently failed to pay her rent charge of £650 per month. The rent payments are due to be paid on first day of each month. Payments have been sporadic since the start of the tenancy.

12. The Applicant's current mortgage has increased to £780 per month which is beyond the rent of the Property.

13. There are no issues of reasonableness that prevent an order from being granted.

Decision

14. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant.

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.

Gabrielle Miller

Legal Member/Chair

16th October 2024

Date