



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/23/4471

Re: Property at 3 Alma Terrace, Laurencekirk, Kincardineshire, AB30 1FL (“the Property”)

Parties:

Mrs Marjorie Stewart, C/O Aberdeen Considine, 5/9 Bonaccord Crescent, Aberdeen, AB11 6DN (“the Applicant”)

Miss Julie May, 3 Alma Terrace, Laurencekirk, Kincardineshire, AB30 1FL (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought to evict the Respondent from the property.

Background

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondent from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 19 August 2024 informing both parties that a CMD had been assigned for 19 September 2024 at 10am, which was to take place by conference call. In that letter, the parties were also told that they were required

to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 9 September 2024.

4. On 4, 15 and 19 September 2024, the Tribunal received written representations from the Respondent.

The case management discussion – 19 September 2024

5. The CMD took place by conference call. Mrs Catriona Truscott and Mrs Deirdre Latimer, representing the Applicant, joined the call. The Respondent joined the call and represented herself. The Tribunal explained the purpose of the CMD. The Respondent explained that she has been registered with the local authority and other organisations to assist her in finding alternative accommodation. The Property has been adapted to meet her adult daughter's care needs. The Respondent did not oppose the application for an eviction order but she sought further time to enable her to secure alternative accommodation for her and her 2 adult children. The Applicant's representatives explained that the Property is the only rental property owned by the Applicant. The Applicant has been diagnosed with Alzheimer's/dementia and the Applicant's representatives are in the process of planning the Applicant's care needs. It is anticipated that the Applicant will need to pay for care costs and that is why there is an intention to sell the Property.
6. The Tribunal adjourned briefly to consider the information provided by the Applicant's representatives and the Respondent. The Tribunal explained that it found that the ground for eviction had been established and that it was reasonable to grant the order. The Tribunal also explained that it exercised its discretion in terms of section 216(4) of the Bankruptcy and Diligence Etc (Scotland) Act 2007 and extended the period of charge specified in section 216(1) of the Act by a period of 2 months.

Findings in Fact

7. The parties entered into a private residential tenancy which commenced 19 May 2018.
8. The Applicant served Notice to Leave on the Respondent by email on 12 September 2023.
9. The Applicant intends to sell the Property.

Reason for Decision

4. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicant relied upon ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondent did not oppose the application for eviction, but she sought further time to find alternative accommodation. She provided some information about the care needs of her daughter. The Applicant's representatives explained that there is not an imminent plan for the Applicant to move, although it is the intention to sell the Property. The Tribunal was satisfied that ground 1 was established and that it was reasonable to grant the order. The Tribunal considered that there would be greater prejudice to the Respondent if the period before eviction was not extended, compared to the prejudice to the Applicant if the period of time before eviction is extended. Balancing the prejudice to both parties, the Tribunal exercised its discretion and extended the period of charge by 2 months.

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.

Legal Member/Chair

Date

19 September 2024
