



Decision 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/24/2605

Re: Property at 6/4 Peffermill Court, Craigmillar Castle Gardens, Edinburgh, EH16 4AA (“the Property”)

Parties:

Ms Zakia Abas, 24 South Lauder Road, Edinburgh, EH9 2NA (“the Applicant”)

Miss Isabelle Speirs, Mrs Karina Brahm, 6/4 Peffermill Court, Craigmillar Castle Gardens, Edinburgh, EH16 4AA (“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 7 June 2024 the applicant seeks an order for eviction on the ground that they intend to sell the property. The application was conjoined with application reference FTS/HPC/CV/24/2607 in terms of which the applicant sought an order for payment in respect of rent arrears.
2. The applicant lodged the following documents with the application:
 - Copy tenancy commencing 5 May 2022
 - Notices to leave dated 21 February 2024 together with proof of service

- Letter of engagement from Lindsays solicitors regarding sale of the property.
 - Letter under section 11 of the Homelessness (Scotland) Act 2003
 - Affidavit signed by the applicant dated 30 September 2024
3. A case management discussion (“cmd”) was assigned for 8 October 2024

Case management discussion – 8 October 2024- teleconference

4. The applicant was represented by Mr Gardiner, solicitor, Lindsays solicitors. Both respondents were in attendance.
5. Mr Gardiner sought an order for eviction relying on ground 1 in schedule 3 of the 2016 Act – the landlord intends to sell. He referred to the documents that had been submitted with the application and stated that proper notice had been given to the respondents. He submitted that ground 1 had been established as it was the applicant’s intention to sell the property as set out in the affidavit and supported by the letter of engagement in respect of the sale.
6. Both respondents confirmed that they did not seek to oppose an order being granted. Ms Speirs stated that there were serious issues of disrepair in the property which meant that she did not wish to live there anymore. She stated the property was cold and expensive to heat and was affected by dampness and mould. Ms Speirs confirmed that she had moved into the property after signing the tenancy agreement on 5 May 2022. She confirmed that the rent payable in the property was £700 per month. She advised that Ms Brahm had moved into the property in December 2022. At that time Ms Brahm confirmed that she had asked the applicant to sign a document confirming that she was living in the property for the purpose of a housing benefit claim. Ms Speirs confirmed that she and Ms Brahm paid half the rent each. Ms Speirs advised that her understanding of the arrangement was that Ms Brahm was a subtenant.
7. Both Ms Brahm and Ms Speirs were clear that they did not wish to continue to reside in the property and therefore did not seek to oppose the application. They both stated that they had sought advice from City of Edinburgh Council. They stated that they had applied for housing and had been bidding for properties using the council’s allocation process. They both hoped to find alternative

accommodation from the local authority at the conclusion of the present process.

Findings in fact and law

8. The applicant and the first respondent entered into a private rented tenancy agreement with a commencement date of 5 May 2022.
9. The second respondent occupies the property as a sub tenant of the first respondent.
10. The applicant is the owner of the property.
11. The applicant intends to sell the property.
12. The respondents do not oppose the application for an order under ground 1 in schedule 3 of the 2016 Act.
13. It is reasonable to grant an order.

Reasons for the decision

14. 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.

15. The Tribunal took into account the written application and documents which had been lodged by the applicant as well as Mr Gardiner's submissions at the cmd. Based on the evidence provided the Tribunal accepted that the applicant intends to sell the property. This was not disputed by the respondents.
16. The respondents did not oppose the order for eviction being granted and made no objection to the reasonableness of the order being granted.
17. 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

8 October 2024

Date

Legal Member/Chair