



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/24/2073

Property : 17 Queens Avenue, Leven KY8 2DD (“Property”)

Parties:

Stephen Broadley, 6 Railway Road, Airdrie ML6 9AB (“Applicant”)

Marilyn Kent, 6 Railway Road, Airdrie ML6 9AB (“Applicant’s Representative”)

Dominique Greig and Calum Wilson, 17 Queens Avenue, Leven KY8 2DD (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to make an order for possession of the Property.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement which commenced on 19 June 2020; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 5 February 2024 ("Notice to Leave"); copy email to the Respondent dated 5 February 2024 attaching the Notice to Leave; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 22 September 2023; copy terms of business from SBC Properties dated 23 September 2023 regarding the sale of the Property; copy letter from Royal Bank of Scotland noting the expiry of the loan in respect of the Property on 11 March 2023 and sheriff officer's execution of service certifying service of the Application on 19 September 2024.

Case Management Discussion

A case management discussion (“CMD”) took place before the Tribunal on 23 October 2024 by teleconference. The Applicant’s Representative was in attendance as was the First Respondent.

Ms Greig told the Tribunal that the Respondent lives in the Property with their three children aged between 4 and 12. She said that the children attend the local school and nursery. Ms Greig said that she did not oppose the grant of the eviction order. She said she had a case worker at Fife Council who had told her that as soon as the eviction order was granted she would be placed on the homeless list and would be provided with alternative accommodation although the accommodation may initially be temporary. Ms Greig said that she felt that obtaining a council house was the best option for her family as they would then be settled and would not require to move every few years. Ms Greig told the Tribunal that the council had told her that alternative accommodation would be provided as soon as possible.

Ms Kent told the Tribunal that the Applicant owns a portfolio of between 17 and 20 properties which are secured to the Royal Bank. She said the loans have expired and the Applicant requires to sell the portfolio in order to repay the bank. She said that the Property had been advertised for some months with the Respondent in situ as tenant but there had been no interest. She said there was a potential buyer who wanted to occupy the Property.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property which commenced on 19 June 2020.
2. A Notice to Leave was served on the Respondent by email on 5 February 2024. It stated that an application for an eviction order would not be submitted to the Tribunal before 2 May 2024.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 22 September 2023.
4. The Applicant holds title to the Property and is entitled to sell the Property.
5. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it in order to alleviate financial hardship.

Reasons for the Decision

In terms of section 51 of the Act, the Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 1A which is that the landlord intends to sell the Property to alleviate financial hardship. The evidence lodged with the application of intention to sell was copy terms of business from SBC Properties dated 23 September 2023 regarding the sale of the Property and copy letter from Royal Bank of Scotland noting the expiry of the loan in respect of the Property on 11 March 2023.

The Tribunal considered the question of reasonableness and the oral submissions from Ms Greig which was that the application was not opposed and the grant of an eviction order would assist her application for a council house. The Tribunal determined that, in all the circumstances, it was reasonable to grant an order for eviction.

Decision

The Tribunal determined to grant an order for possession of the Property.

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.

Joan Devine

Joan Devine
Legal Member

Date : 23 October 2024