



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/2225

Re: Property at 4F Aurs Road, Barrhead, Glasgow, G78 2RN (“the Property”)

Parties:

Mrs Susan Hoppe, 21 Gleniffer Drive, Barrhead, Glasgow, G78 1JA (“the Applicant”)

Mr Lee McGregor, Miss Nichola Alford, 4F Aurs Road, Barrhead, Glasgow, G78 2RN; 1B Oakbank Drive, Barrhead, Glasgow, G78 2PH (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Gordon Laurie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for possession relying on ground 1 (landlord intends to sell) in schedule 3 of the Private Housing (Tenancies) Act 2016. Enforcement of the order is suspended until 27 January 2025.

Background

1. By application dated 15 May 2024 the applicant seeks an order for possession relying on ground 1 (landlord intends to sell).
2. The following documents were lodged with the application:
 - Copy tenancy agreement
 - Section 11 notice
 - Notice to leave and proof of service
 - Terms of business letter from MSM solicitors and estate agents
 - Rent statement

- Decision relating to previous application
- Copy mortgage statements

Case management discussion (“cmd”) – 31 October 2024 – teleconference

1. The applicant was in attendance with Mr Aiton from Sinclair Services, letting agents. The first respondent was in attendance. The second respondent was not present or represented. It was a matter of agreement between parties that the second respondent no longer resided in the property. The Tribunal was satisfied that the second respondent had been served with the papers at her new address and had received proper notice in terms of rule 24.1. The Tribunal proceeded with the cmd in the absence of the second respondent in terms of rule 29.
2. The applicant sought an order for eviction. She confirmed that it remained her intention to sell the property as soon as possible. She stated that there were considerable rent arrears in the property which currently amounted to £4172.. The impact of the arrears was increased by additional outgoings for the property, In particular the applicant highlighted that mortgage payments for the property had increased however there are no mortgage arrears at present. The applicant stated that she had recently become a full time carer for her mother. She was also the parent of three children. The applicant stated that she is over stretched with personal commitments at present and seeks to sell the property.
3. The first respondent stated that he did not seek to oppose an order for eviction being granted. However he requested that enforcement of the order be suspended until the end of January 2025.
4. The Tribunal heard from parties regarding the suspension of enforcement sought.
5. The applicant stated that she did not agree to a suspension and wanted an order as soon as possible. She highlighted the outstanding rent arrears in the property and the fact that the rent was often paid late. She confirmed that throughout much of 2024 rent payments had been made but noted that payments had been missed in July and August with a double payment of £800 made in September. No payment had been made since then. The applicant stated that the impact of the eviction process had already been stressful

particularly as she was dealing with various caring responsibilities at present. She wished the matter to be concluded as soon as possible. Mr Aiton stated that he had spoken to the homelessness officer at the local authority who had been dealing with the first respondent's application as a homeless person. He had been advised that alternative accommodation would be sourced after an eviction order was enforced and therefore, if the respondent was concerned that accommodation should be made available from the local authority it would not benefit him to postpone the date of any eviction.

6. The first respondent stated that he had begun experiencing difficulties in the tenancy after he was unable to work due to ill health. He stated that he had issues for a period of time in obtaining universal credit housing costs and was unable to afford to pay the rent during this period. The first respondent stated that he had sought advice and since the start of 2024 he has received universal credit housing costs to cover the full rent due. The first respondent stated that he would pay the rent due in any period up to enforcement of the order. The first respondent stated that he had a 4 year old son. He had residential contact with his son on alternative weekends. He confirmed that he had made an application as a homeless person to the local authority. He was concerned that if he was evicted and placed in temporary accommodation such as a hostel or hotel he would not be able to spend time at Christmas with his son. He stated that he sought an extension to allow him to remain in his current home until after Christmas. He also stated that an extension would increase the likelihood of accommodation being offered which may mean that he would not need to spend time in a hostel or hotel. The first respondent was clear that his intention was to seek alternative accommodation from the local authority. The first respondent stated that he had suffered mental health issues which were ongoing as a result of his housing situation. The first respondent stated that he would pay rent until he left the property and stated that he had previously suggested that the applicant request rent payments direct to her from universal credit.

Findings in fact and law

7. Parties entered into a private rented tenancy agreement with a commencement date of 29 April 2018.
8. The applicant is the owner of the property.
9. The applicant intends to sell the property.
10. It is reasonable to grant an order for eviction

Reasons for the decision

11. 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.

12. The Tribunal took into account the written representations and documents lodged together with oral representations at the cmd. The first respondent did not oppose an order for eviction being granted.

13. The Tribunal found the applicant to be straightforward and truthful in her responses and accepted her evidence that she intended to sell the property.

14. The Tribunal accepted that the applicant intended to sell the property as soon as possible.

15. In relation to whether it was reasonable to grant the order the Tribunal gave weight to the personal circumstances of the applicant and the reasons given for her decision to sell the property. The Tribunal took into account that the respondent had built up arrears which had an ongoing financial impact on the applicant and was a source of stress. The Tribunal also took into account the applicant's personal circumstances and caring responsibilities which meant that she had little time available to deal with the tenancy. This position seemed reasonable.
16. The Tribunal gave significant weight to the fact that the respondent did not oppose an order for eviction. Taking the above factors into account the Tribunal was persuaded that on balance it was reasonable to grant an order for eviction in favour of the applicant.

Enforcement of order

17. Rule 41 of the Tribunal rules states that the Tribunal may determine the date of enforcement of an order in terms of regulation 2(2) of the Scottish Tribunals (Time Limits) Regulations 2016 which states:
- (2) The First-tier Tribunal or the Upper Tribunal, as appropriate, may on cause shown extend the period beyond 30 days if it considers such an extension to be in the interests of justice.*
18. The Tribunal considers it to be in the interests of justice to extend enforcement of the order until 27 January 2025. The Tribunal was particularly swayed by the fact that the first respondent's primary consideration was that his son should be able to spend Christmas with him which may not be possible if he was living in local authority temporary accommodation. The Tribunal also gave particular weight to the fact that the first respondent did not seek to defend the application which had he done, would have extended the process further than the date of enforcement. The Tribunal accepted the information provided by the first respondent that an extension of the period up to enforcement would improve his chances of securing suitable accommodation from the local authority.
19. The Tribunal took into account that there were significant rent arrears and gave weight to the applicant's submissions that any extension may lead to increased rent arrears. However, the Tribunal noted that rent had been paid fairly regularly

in the recent history of the tenancy and given the limited extension period determined that it would allow the extension as the reasons provided for the extension outweighed the reasons stated in opposition in the opinion of the Tribunal.

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.

MC.Kelly

Legal Member/Chair

31 October 2024 _____
Date