



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

Chamber Ref: FTS/HPC/EV/24/2336

Re: Property at 21 Millglen Road, Ardrossan, KA22 7EB (“the Property”)

Parties:

Mr Alastair Macleod, 40 Trefoil Avenue, Glasgow, G41 3PE (“the Applicant”)

Ms Dawn McArththur Upex, 21 Millglen Road, Ardrossan, KA22 7EB (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Sandra Brydon (Ordinary Member)

Decision - In absence of the Respondent

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

Background

1. The Applicant seeks an eviction order in terms of Section 51 and Ground 1 of schedule 3 of the 2016 Act. A section 11 notice, tenancy agreement, Notice to leave, Sheriff Officer certificate of service and valuation of the property were submitted with the application.
2. A copy of the application was served on the Respondent and the parties were notified that a CMD would take place by telephone conference call on 4 November 2024 at 2pm
3. The CMD took place on 4 November 2024. The Applicant was represented by Mrs Dickie. The Respondent did not participate and was not represented.

Summary of Discussion

4. Mrs Dickie told the Tribunal that the Respondent contacted her when she received the application paperwork. She wanted to know if she had to

participate and was told that she should do so to put forward her case. However, from this and previous discussions, Mrs Dickie was aware that the Respondent does not oppose the application but has been told that the Local Authority will not re-house her until an eviction order is granted.

5. Mrs Dickie said that the Respondent is in employment and lives at the property with two children who are believed to be of school age. She and the landlord know each other as he used to do some of the repairs at the property himself, before he became ill. The Respondent understands that he needs to sell the property. The Applicant has had to give up work as a result of his health issues and is selling his 3 rental properties. One has already been sold. Initially the Respondent was given 6 months' notice, although this was not required, but was unable to find a suitable property in the private sector. A second notice was then issued with the correct period of notice so that an application could be made to the Tribunal. Mrs Dickie said that she is not aware of any health issues affecting the household and does not know if the Respondent is in receipt of any benefits. However, the rent is paid by her and not the DWP.

Findings in Fact

6. The Applicant is the owner and landlord of the property.
7. The Respondent is the tenant of the property. She resides there with her children. She is in employment.
8. The Respondent has applied for alternative accommodation from the Local Authority.
9. The Applicant wishes to sell the property as he has health issues and is unable to work.
10. The Applicant served a Notice to leave on the Respondent on 16 February 2024.

Reasons for Decision

11. The application was submitted with a Notice to Leave dated 13 February 2024 together with a Sheriff Officer report which establishes that the Notice was served on 16 February 2024. The Notice states that an application to the Tribunal is to be made on ground 1, landlord intends to sell the let property.
12. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice which was sent to the Local Authority. The Tribunal is therefore satisfied

that the Applicant has complied with Section 56 of the 2016 Act.

13. Section 51(1) of the 2016 Act states, “The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.”
14. Ground 1 of schedule 3 (as amended) 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.”
15. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Applicant intends to sell the property and that ground 1 is established.
16. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -
 - (a) The Applicant intends to sell the property as he has health issues and has had to give up work. The Respondent has been aware of this since November 2023.
 - (b) The Respondent did not contact the Tribunal or indicate that the application is opposed. She has told the Applicant’s letting agent that the application is not opposed but that she has been unable to source alternative accommodation.
 - (c) The Respondent has applied to the Local Authority and been advised that she will not receive priority for re-housing until an eviction order is granted.
17. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act and that ground 1 has been established. For the reasons outlined in paragraph 16, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

18. The Tribunal determines that an eviction order should be granted against the Respondent.

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.

Josephine Bonnar, Legal Member

4 November 2024