



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/24/2691

Re: Property at 19 Bute Court, Stevenston, KA20 3JB (“the Property”)

Parties:

Ms Sarah Michelle Gregory, c/o 14 Bute Court, Stevenston, KA20 3JB (“the Applicant”)

Ms Mary Masih, 19 Bute Court, Stevenston, KA20 3JB (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted under ground 4 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016, with enforcement superseded until 15 January 2025.

Statement of Reasons

1. This Application called for its Case Management Discussion by teleconference call on 13 November 2024. The parties were all present, and the Applicant was also represented by Ms McKee of Welcome Homes Ayrshire.
2. This is an Application for an eviction order. The Applicant is the landlord, and the Respondent the tenant, of the Property under and in terms of a Private Residential Tenancy Agreement. The Applicant has given Notice to Leave to the Respondent founding on Ground 4 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016, in respect that she intends to live in the Property. The Applicant has separated from her husband. She is currently living in a property owned by her mother, but that property is shortly to be

sold. The Applicant owns no other property. She requires the Property for her and her two children, aged 6 and 2, to live in. She has a son and a daughter. The Property is a three bedroom house, and fits their needs. The Respondent is a good tenant, is not in any arrears of rent and generally keeps the Property in good condition. The Applicant has provided a positive reference for the Respondent to use in seeking rehousing. The Applicant is apologetic about the need to recover the Property, but her circumstances are such that she requires to do so. The Applicant's assertions were all accepted by the Respondent.

3. The Respondent resides at the Property with her husband and two children. The Respondent suffers from significant mobility issues. She is unable to go upstairs in the Property. She has moved her bed to the ground floor. The main bathroom is upstairs. There is a WC toilet on the ground floor, but no facilities for bathing. The Respondent's daughter is also disabled. She has a brain injury. The Property does not meet the needs of the Respondent or her daughter. It has not been adapted for their use. The Respondent approached the local authority in April 2023 to seek rehousing. The local authority's rehousing strategy is a points based system. The Respondent has a lot of points due to her needs. She will get additional points if an eviction order is granted against her. However, the issue she has with finding alternative housing is not a lack of points, but rather a lack of housing in the North Ayrshire area. It is likely that, if she is evicted, the Respondent and her family will require to go into temporary accommodation whilst a suitable property is found. The Respondent spoke of her desire to find a property that she and her family can settle in, but accepted that the Property was not it. The Respondent's assertions were all accepted by the Applicant.
4. Given that the facts asserted by each party were accepted by the other as being true, the Tribunal was satisfied that it was unnecessary to fix a Hearing on evidence. The Tribunal is able, under Rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 to do anything at a CMD that it may do at a Hearing, including make a decision. When making a decision, the Tribunal is required to have regard to the overriding objective, in Rule 2, to deal with proceedings justly.
5. The Tribunal accepted that the Applicant intends to reside in the Property with her children. The only extant question for the Tribunal to determine was whether it was reasonable to grant the eviction order.
6. The Tribunal unanimously determined that it was reasonable to grant the eviction order. The Property is not suitable for the Respondent's needs, nor her daughter's. The Applicant resides at her mother's property by her grace, but cannot do so indefinitely. She requires her own property for herself and her children, and the Tribunal was compelled to determine that she should be able to live in a property that she already owns.
7. That being said, the Tribunal was mindful that the Respondent's needs had already made the identification of a suitable alternative property challenging,

and it was unlikely that a suitable property would be found in the short-term. It will almost certainly not be identified prior to the festive break. For that reason, the Tribunal determined of its own volition that it would be reasonable to delay the enforceability of the eviction order until 15 January 2025. The supersession of the order in that manner will afford the Respondent a short additional period of time to find suitable alternative accommodation, and will also remove any anxiety that a potential eviction prior to Christmas may bring.

8. For the purposes of section 51(4) of the 2016 Act, the Private Residential Tenancy between the parties will terminate on 15 January 2025.

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.

Andrew Upton

Legal Member/Chair

Date: 13/11/2024