



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/24/2151

Re: Property at 0/1 70 Rosemount Street, Royston, G21 2JY (“the Property”)

Parties:

Mrs Karen Serir, 71 Iona Way, Kirkintilloch, G66 3QB (“the Applicant”)

Miss Megan Paton, 0/1 70 Rosemount Street, Royston, G21 2JY (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at 0/1 70 Rosemount Street, Royston, G21 2JY under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees, and others together with their goods, gear and whole belongings forth and from the Property and to make the same void and redd that the Applicant or others in his name may enter thereon and peaceably possess and enjoy the same.

Background

1. This is an application for eviction for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The Applicant’s case is

based on Ground 1 (Landlord intends to sell the Property) of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

2. The application was accompanied by a Private Residential Tenancy Agreement dated 22 November 2019, a Notice to Leave dated 8 February 2024, a sales agreement dated 25 January 2024 between the Applicant and 1-4 Sale and a Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with email to Glasgow City Council dated 10 May 2024.
3. On 19 September 2024 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 25 October 2024. The Respondent required to lodge written submissions by 10 October 2024. This paperwork was served on the Respondent by Andrew McLean, Sheriff Officer, Glasgow on 20 September 2024 and the Execution of Service was received by the Tribunal administration.
4. On 10 October 2024 the Respondent’s solicitor lodged written representations on behalf of the Respondent; the Respondent did not wish to oppose the application but requested that any order be suspended for least a three-month period to provide a better opportunity for the local authority to source suitable interim accommodation in the local area.
5. On 10 October 2024 the Applicant’s letting agent emailed the Tribunal to object to any suspension of any order.

Case Management Discussion

6. The Tribunal proceeded with the CMD on 25 October 2024 by way of teleconference. Ms Brennan from 1-2-Let, Letting Agents, appeared on behalf of the Applicant. Ms Simpson, Solicitor from Govan Law Centre appeared for the Respondent.
7. The Tribunal had before it the Private Residential Tenancy Agreement dated 22 November 2019, the Notice to Leave dated 8 February 2024, the sales agreement dated 25 January 2024 between the Applicant and 1-4 Sale and the Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with email to Glasgow City Council dated 10 May 2024. The Tribunal noted the terms of these documents.
8. Ms Brennan confirmed the Applicant still wished to proceed with the eviction. The Respondent had received sufficient notice. She understood the Property was overcrowded. The Applicant wanted to sell the Property as she was finding it hard to keep up with the costs of the Property. Ms Brennan explained the Applicant was working two jobs and needed to sell the house.

9. Ms Simpson submitted the Respondent had been actively looking for alternative accommodation for some time. The size of the Property no longer met the needs of the Respondent and her family as her children had to share a bedroom. The Respondent has been to Glasgow City Council for assistance. Her application for housing has been accepted and it is hoped Section 5 referrals will be made to registered social landlords, but due to the housing crisis it is likely the family will find themselves in interim accommodation before receiving an offer of permanent accommodation. Ms Simpson submitted the Respondent and her family needed further time to get help. She submitted the Respondent had two children, an 11 year old son and a 14 year old daughter. The Respondent's son has development issues, and additional support needs. Reasonable adjustments to meet his needs have been made at the Respondent's son's school. The Respondent's support network is nearby, helping her with childcare. She submitted that although the application to evict was not opposed, the order to evict should be suspended by three months to allow additional time for the Council to source suitable alternative accommodation for the family in the area.

Reasons for Decision

10. The Tribunal considered the issues set out in the application together with the documents lodged in support.
11. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 1, namely the Landlord intends to sell the Property. This is a discretionary ground of eviction. As well as being satisfied the facts have been established to support the grounds, the Tribunal has to be satisfied that it is reasonable to evict
12. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave, unless it is not made in breach of any of sections 54 to 56 and unless the eviction ground applied for is stated in the Notice to Leave accompanying the application.
13. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states it is the Applicant's intention to sell the Property at Part 2 of the Notice in terms of Ground 1 of schedule 3. The Notice to Leave specifies the date the landlord expects to become entitled to make an application for an eviction order and specifies a date in terms of Section 54(2) in this case 6 May 2024. The Notice to Leave was served on the Respondent by email on 8 February 2024. In terms of Section 54 the notice period of the Notice to Leave is 84 days. The Notice to Leave stated the earliest date the Applicant could apply to the Tribunal was 6 May 2024. In the circumstances

the Tribunal is satisfied the Respondent has been given sufficient notice. Accordingly, the Notice to Leave complies with Section 62.

14. The Tribunal considered the submissions made by on behalf of both parties. The Tribunal was satisfied on the basis of the documents lodged, together with parties' submissions that the factual basis of the application had been established in relation to Ground 1 and was satisfied the Applicant intended to sell the Property as soon as she regained possession. The application was not opposed, and the Property no longer met the needs of the Respondent and her children.

15. In determining whether it is reasonable to grant the order, the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal was satisfied that the Applicant's intention was to sell the Property when she obtained possession of it due to her financial position. The Respondent on the other hand no longer wanted to live in the Property. Her disabled son and her daughter shared a bedroom. The Tribunal gave weight to the fact that the Respondent did not oppose the application. The Tribunal were conscious that the Respondent was finding it difficult to find affordable, alternative accommodation in the area. However, on balance the Tribunal considered the balance of reasonableness in this case weighted towards the Applicant. The Tribunal find it would be reasonable to grant the order. Due to the difficulties the Respondent is facing in finding alternative, affordable accommodation in the area and to allow her time to seek further help from the Council and to make arrangements for her children and particularly for her son, to move school if that proves necessary, the Tribunal determined the order should be suspended for three months.

16. In the circumstances the Tribunal considered that in terms of Ground 1 of Schedule 3 it was reasonable to grant an eviction order in terms of Section 51 of the 2016 Act.

Decision

17. The Tribunal granted an order for repossession. The decision of the Tribunal was unanimous.

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.

Shirley Evans

26 October 2024

Legal Member

Date