



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 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/EV/24/2285

Re: Property at 4 Randolph Street, Cowdenbeath, Fife, KY4 8NL (“the Property”)

Parties:

Mr Gordon Wilson, Mrs Sheena Wilson, 4 Dean Park Gardens, Kirkcaldy, KY2 6XX (“the Applicant”)

Ms Catherine Cameron, 4 Randolph Street, Cowdenbeath, Fife, KY4 8NL (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession of the property be granted.

Background

1. By application received on 20 May 2024, the Applicant applied to the Tribunal for an order for recovery of possession of the property in terms of Section 51 of the 2016 Act against the Respondent. The application sought recovery in terms of Ground 1 of Schedule 3 to the 2016 Act (landlord intends to sell). Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, Notice to Leave/proof of service of same, the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003/proof of service of same and evidence in support of the ground, including a letter from the Applicant’s estate agent confirming that they were instructed in the sale of the property.

2. Following initial procedure, on 24 June 2024, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. Notification of the application and details of the Case Management Discussion (“CMD”) fixed for 8 November 2024 was served on the Respondent by way of Sheriff Officer on 2 October 2024. In terms of said notification, the Respondent was invited to lodge written representations.
4. On 11 October 2024, representations were received from the Respondent’s representative stating that the Respondent was not opposed to the application but seeking a slight extension of the eviction date into the New Year, together with reasons for said request.

Case Management Discussion

5. A Case Management Discussion (“CMD”) took place by telephone conference call on 8 November 2024 at 2pm. Initially, the CMD was only attended by the Respondent’s representative, Ms Iona Watson, of Frontline Fife. On the instructions of the Legal Member, the Clerk contacted the Applicant’s representative by telephone and Mrs Jordan Nisbet of McLaughlin & Co, solicitors subsequently joined the call. She apologised for her late attendance and explained that this had been due to an administrative error.
6. Following introductions and introductory remarks by the Legal Member, there was brief discussion regarding the eviction application and the fact that it was unopposed by the Respondent but that a slight extension on the eviction date was sought by the Respondent. Without an extension, the likely eviction date would fall between Christmas and New Year. Due to logistical difficulties moving at that time and for family reasons, the Respondent had sought an extension into the New Year. Mrs Nisbet confirmed that she had received email instructions from the Applicant that, in the circumstances, they were agreeable to an extension to the end of January 2025. Ms Watson confirmed this would be suitable to the Respondent.
7. The Tribunal Members conferred briefly and confirmed that, given that they were satisfied that the application was in order and that there was agreement on the matter of an extension on the eviction date, an order would be granted stipulating the earliest date of eviction as 31 January 2025. Parties were thanked for their attendance and the CMD concluded.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 1 October 2022.
3. The Respondent remains in occupation of the Property.

4. The Applicant intends to sell the Property and to market it for sale as soon as possible and within 3 months of obtaining vacant possession.
5. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent by post, posted on 12 February 2024 and delivered on 13 February 2024.
6. The date specified in the Notice to Leave as the earliest date the eviction Application could be lodged with the Tribunal was 8 May 2024.
7. The Tribunal Application was submitted on 20 May 2024.
8. The Respondent did not oppose the application but sought a slight extension of the eviction date.
9. The Applicant agreed to an extension of the eviction date to 31 January 2024.

Reasons for Decision

1. The Tribunal gave consideration to all of the background papers including the application and supporting documentation, the representations lodged on behalf of the Respondent and the oral information provided at the CMD by both the Applicant and Respondent's representatives.
2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the requisite period of notice (84 days) had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the tenancy agreement and the relevant provisions of the 2016 Act.
3. The Tribunal considered that the ground of eviction, that the landlord intends to sell (Ground 1 of Schedule 3 to the 2016 Act, as amended) was satisfied in that all elements of Ground 1 were met and that it was reasonable, having regard to all of the circumstances, to grant the eviction order sought. The Tribunal had noted that there was supporting documentation with the application from the Applicant's estate agents confirming that they were instructed in the sale and that the Respondent, having sought advice, was not opposed to the application. In the circumstances, the Tribunal did not consider that it had to enquire further into either party's circumstances in terms of reasonableness. Given that the Respondent had sought an extension of the applicable eviction date and provided reasons for this request, and that the Applicant had agreed to an extension to the end of January 2025, the Tribunal was happy to grant such an extension until 31 January 2025.
4. Accordingly, the Tribunal determined that an order for recovery of possession of the Property under ground 1 could properly be granted at the CMD, subject to the extended date noted above.

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.

N Weir

Legal Member/Chair

8 November 2024
Date