



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

Chamber Ref: FTS/HPC/EV/24/1785

Re: Property at 1/1, 35 Whitehaugh Road, Glasgow, G53 7JQ (“the Property”)

Parties:

Mr Brian Cuthbertson, Mrs Helen Cuthbertson, Mr Steven Cuthbertson, Ms Karen Ann Stewart, 23 Selkirk Avenue, Paisley, PA2 9JF; 23 Selkirk Avenue, Paisley, PA2 9JF; 39 Thistle Avenue, Newton Mearns, Glasgow, G77 6FY; 12 Lambie Crescent, Newton Mearns, Glasgow, G77 6JU (“the Applicant”)

Ms Vicky Gardner, 1/1, 35 Whitehaugh Road, Glasgow, G53 7JQ (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction. The Tribunal determined to suspend enforcement of the order until 4 April 2025.

Reasons for the decision

1. By application dated 18 April 2024 the applicants seek an order for eviction relying on ground 1 in schedule 3 of the Private Housing (Tenancies) Act 2016 – landlord intends to sell the property.
2. The case was heard alongside conjoined case ref FTS/HPC/CV/1786 in terms of which the applicants seek an order for payment in respect of outstanding rent arrears.
3. The applicants lodged the following documents with the application

- Copy Private Residential Tenancy agreement with a commencement date of 1 June 2022
 - Notice to leave specifying 14 February 2024 as the date after which proceedings may be raised
 - Section 11 notice
 - Agreement with Momo Homes relating to the sale of the property.
4. A case management discussion (“cmd”) was assigned for 11 September 2024. In advance of the cmd the respondent’s representative lodged a written note of defence.
 5. Both parties were represented at the cmd. As there was a dispute on the question of reasonableness a hearing was assigned to determine the application.
 6. On 22 November 2024, solicitors for both parties emailed the Tribunal to advised that settlement terms had been agreed between the parties. Both solicitors requested that an eviction order be granted without the need for a hearing, with a suspended enforcement date of 4 April 2025.
 7. Rule 18 states:

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

8. In light of the written representations submitted by both parties the Tribunal determined to make a decision to grant an order without the need for a hearing in terms of rule 18 to give effect to the settlement terms agreed between parties’

legal representatives. In line with the agreed settlement the Tribunal determined to vary the date of enforcement of the decree until 4 April 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Mary-Claire Kelly

Legal Member/Chair

10/12/2024
Date
