

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/24/2555

Re: Property at 10 Lochranza Place, Saltcoats, KA21 6LY (“the Property”)

Parties:

Mr Gordon Mitchell and Mrs Julie Mitchell, 17 Cumbrae Place, West Kilbride, KA23 9JR (“the Applicants”)

Miss Beverly Duffy, 10 Lochranza Place, SALTCOATS, KA21 6LY (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision

At the Case Management Discussion (“CMD”), which took place by telephone conference on 16 October 2024, the Applicants were not in attendance but were represented by Ms Susan Laird of 247 Property Scotland Limited. The Respondent was also present and was represented by Ms Andrea Gibson of the Community Housing Advocacy Project.

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:-

Background

The Tribunal noted the following background:-

- i. The Applicants are the heritable proprietors of the Property.
- ii. The Applicants leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement (“the PRT”) that commenced on 24 June 2020.
- iii. On 29 February 2024, the Applicants served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 26 May 2024 on the basis that they require to sell the Property.
- iv. The Applicant has served on North Ayrshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the outset of the CMD Ms Laird for the Applicants confirmed that an eviction order is still sought.

Ms Gibson for the Respondent narrated that the grant of an eviction order is not opposed. The Respondent has been granted a social tenancy and is waiting the keys to the property in question.

Ms Laird for the Applicants stated that she was unaware of the Respondent's position today but was aware she had been looking for alternative accommodation that would be more suitable for her needs and that she could not move out the Property if that would have made her homeless.

The Applicants own the Property and one other property. The Applicants cannot afford to keep the properties. Their mortgage is needing renewed and repairs are needed to both properties. The tenant has moved out the other property which is being made ready to go on the market for sale.

Reasons for Decision

The Respondent does not oppose the grant of an eviction order. She has been allocated alternative accommodation and awaits the keys thereto.

The application proceeds upon ground 1 of Schedule 3 of the 2016 Act.

Ground 1 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.*
- (3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—*
 - (a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,*
 - (b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market."*

The Applicants are entitled to sell the Property in terms of sub-paragraph 2(a), being the heritable proprietors thereof.

Sub-paragraph 2(b) requires that the Applicants intend to sell the Property for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it. Sub-paragraph 3 gives examples of the evidence that might be produced to show the landlord has the intention described in sub-paragraph 2(b). In this instance the Applicants rely upon an email from the First Applicant dated 11 June 2024. In that the Respondent does not oppose the grant of an eviction order the Tribunal accepts this document as sufficient to meet the terms of sub-paragraph 2(b). In the circumstances it is reasonable to grant an eviction order.

Decision

The Tribunal grants an eviction order against the Respondent in favour of the Applicant.

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.

Gillian Buchanan

Legal Member/Chair

21 November 2024

Date