



Decision with Statement of Reasons 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/24/2490

Re: Property at 22 Balfroon Loan, Edinburgh, EH4 7JY (“the Property”)

Parties:

Ms Khaleda Aman, 7/3 Balfroon Loan, Edinburgh, EH4 7LA (“the Applicant”)

Mrs Nadia Nazir, 22 Balfroon Loan, Edinburgh, EH4 7JY (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction relying on ground 4 (landlord intends to live in the property) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The Tribunal determines that the order shall not be executed prior to 12 noon on 6 January 2025.

Background

1. By application dated 31 May 2024 the applicant seeks an order for possession relying on ground 4 (landlord intends to live in property) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. The following documents were lodged with the application:
 - Section 11 notice with proof of intimation
 - Notice to leave and proof of service
 - Statement of applicant
 - Supplementary written submissions

Case management discussion (“cmd”) – 26 November 2024 – teleconference

3. The applicant was represented by Mr Gardiner, solicitor, Lindsays solicitors. The respondent was represented by Mr Wilson, CHAI (Community Help and Advice Initiative).
4. Mr Gardiner sought an order for eviction relying on ground 4. He referred to the applicant’s statement which set out the applicant’s circumstances. The applicant resides with her 21 year old son in a two bedroom flat. She requires more space to accommodate herself and her son. The property at 22 Balfron Loan, Edinburgh is a 3 bedroom house with more space.
5. Mr Wilson advised that the respondent did not oppose the application. He explained that he had spoken to her in advance of the cmd when she had confirmed her position in relation to the application.

Findings in fact and law

6. Parties entered into a private residential tenancy agreement on or around 1 August 2022.
7. The applicant is the owner of the property.
8. The applicant intends to return to reside in the property as her permanent home.
9. The respondent does not seek to oppose the application..
10. It is reasonable to grant an order for eviction.

Reasons for the decision

11. Ground 4 states:

4(1) It is an eviction ground that the landlord intends to live in the let property.

(2) The First-tier Tribunal may find that the ground named by subparagraph (1) applies if—

- (a) the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months , and*
- (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.*

(3) References to the landlord in this paragraph—

(a) in a case where two or more persons jointly are the landlord under a tenancy, are to be read as referring to any one of them, (b) in a case where the landlord holds the landlord's interest as a trustee under a trust, are to be read as referring to a person who is a beneficiary under the trust.

(4) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the landlord has that intention.

12. The Tribunal took into account the written representations and documents lodged together with oral representations at the cmd.
13. The Tribunal had particular regard to the statement that had been submitted confirming the applicant's intention to return to the property.
14. The Tribunal accepted Mr Gardiner's unopposed submission that the applicant intended to return to the live in the property as her permanent home in order to have more space for her family.
15. In relation to whether it is reasonable to grant an order the Tribunal found that it was reasonable that the applicant should seek to live in the property to have more space. The Tribunal gave significant weight to the fact that the respondent did not seek to oppose the application and did not make any submissions in relation to reasonableness. Taking the above factors into account the Tribunal was persuaded that on balance it was reasonable to grant an order for eviction in favour of the applicants.
16. The Tribunal discussed the date of enforcement of the eviction order with parties' representatives in light of the fact that the earliest date of enforcement would be 26 December 2024. Parties agreed that an extension to 6 January 2025 would be appropriate.

Decision

The Tribunal determined to grant an order of eviction relying on ground 4. The earliest date for enforcement is 6 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

**Mary Claire-Kelly
Legal Member/Chair**

26 November 2024

Date