



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/24/3147

Re: Property at 118 Lesmuir Drive, Glasgow, G14 0EE (“the Property”)

Parties:

Mr Bhubinder Burmy, Mrs Swarnjit Burmy, 10 Blackhill Crescent, Glasgow, G23 5NF (“the Applicants”)

Ms Lynne Kinnear, 118 Lesmuir Drive, Glasgow, G14 0EE (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. An application was received by the Housing and Property Chamber dated 26th June 2024. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 30th October 2024, all parties were written to with the date for the Case Management Discussion (“CMD”) of 12th December 2024 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 20th November 2024.
3. On 31st October 2024, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by a Certificate of Intimation dated 31st October 2024.

4. On 6th December 2024, the Respondent emailed the Housing and Property Chamber stating that she objected to the rent increase which had been applied. She raised issues with repairs which needed to be completed in the Property. She wished this information to be added to the case information.

The Case Management Discussion

5. A CMD was held on 12th December 2024 at 2pm. The Applicant was represented by Miss Emma McCulloch, Eve Properties. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules.
6. Miss McCulloch told the Tribunal that the Applicants own 12 properties in total. She believes it to be a family enterprise. This is the only property which they are looking to sell because they have been unable to remortgage the Property.
7. Miss McCulloch said that there were no significant tenancy issues. There were arrears of £1410. This was one month's missed rent and that the Respondent objects to the rent increase so has not paid it. Miss McCulloch noted that there was not a formal objection at the time of the increase. The Tribunal noted that this was not an issue on the provision that the Applicants were not motivated to evict on this basis. Miss McCulloch said that the Applicants required to sell due to the re mortgaging issues not other tenancy issues.
8. Miss McCulloch said that she had spoken to the Respondent in November. The Respondent had indicated that she spoke to the local authority about being rehoused and that her preference was to allow the eviction to be granted so that she could be rehoused. Miss McCulloch said that she believes the Respondent lives in the Property with her two children. One is high school-aged, and one is around 18 or 19 years old. Miss McCulloch said that the Respondent's partner may be living in the Property also.

Findings and reason for decision

9. A Private Rented Tenancy Agreement commenced 31st January 2018.
10. The Applicants want to sell the Property as they have been unsuccessful at trying to remortgage the Property.
11. The Applicants were in negotiations with the local authority to buy the Property with the Respondent continuing to live in it but this was not successful.
12. There are no significant tenancy issues in terms of rent arrears or antisocial behaviour.
13. There are no issues of reasonableness that prevent an order from being granted.

Decision

14. The Tribunal found that ground 1 has been established and granted an order 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.

Gabrielle Miller

12th December 2024

Legal Member/Chair

Date