



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/24/1325

Re: Property at 51 Moredun Dykes Road, Edinburgh, EH17 8PT (“the Property”)

Parties:

Mrs Linda Forrest, 13 Drum View Avenue, Danderhall, Dalkeith, EH22 1NX (“the Applicant”)

Ms Kirsty Ann Edwards, 51 Moredun Dykes Road, Edinburgh, EH17 8PT (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Mary Lyden (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 19th March 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 12th September 2024, all parties were written to with the date for the Case Management Discussion (“CMD”) of 16th October 2024 at 10am by teleconferencing. The letter also requested all written representations be submitted by 3rd October 2024.
3. On 13th September 2024, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 13th September 2024.

The Case Management Discussion

4. A CMD was due to be held on 16th October 2024 at 10am by teleconferencing. A global technical issue occurred to the teleconferencing system prior to the CMD starting which prevented it from starting at 10am. The Tribunal decided to adjourn the CMD to allow parties to attend as it was not clear if the parties had tried to attend at 10am but had been unable to do so. The Tribunal adjourned to a further date in the interests of justice to allow all parties to attend.
5. All parties were written to on 20th December 2024 with the date for the new CMD of 3rd February 2025 at 10am by teleconference. No further representations were submitted by either party prior to the CMD.

The continued CMD

6. A CMD was held on 3rd February 2025 at 10am by teleconference. The Applicant was not present but was represented by Mrs Alison Barr, Director, AM Lettings. The Respondent was not present and was not represented. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any submissions prior to the CMD.
7. Mrs Barr told the Tribunal that the Applicant still wished to sell the Property. Her partner requires a property which is more suitable to accommodate his health conditions. Their current property does not meet this need. The Applicant requires to sell this Property and her own property to enable her to be able to buy a more suitable property. She has one other property which is now vacant and on sale. The accumulation of funds from the three properties will allow the Applicant to find a suitable property that her partner can live in with her. Currently he has been in hospital for 9 months as he is not able to return home due their own home not being suitable for him now. The Applicant is now 70 and does not wish to continue to be a landlord. Her brother has a share of the Property by has indicated to the Housing and Property Chamber that he is content for the Applicant to act on his behalf.
8. Mrs Barr told the Tribunal that there were no issues with rent arrears. The rent was up to date. She believes that the Respondent is looking to be rehoused by her local council. The Respondent lives with her two children who are believed to be aged around 10 and 12 years old. There are no known disabilities.
9. Mrs Barr explained to the Tribunal that although the PRT states that the tenancy on 11th December 2023 the Respondent has lived in the Property since 3rd January 2017 when it had commenced as a Short Assured Tenancy. The Respondent asked for the tenancy to be converted to a PRT. The Respondent was made aware of the Applicant's intention to sell the Property from before that point.
10. The Tribunal considered that it was reasonable to grant an order for eviction.

Findings and reason for decision

11. A Private Rented Tenancy Agreement commenced 11th December 2023.

12. The Applicant lives with her partner. He requires an adapted property. He is currently in hospital. He has been there for 9 months waiting to return home but cannot do so as their home is not suitable in terms of accommodating his conditions. The Applicant is selling her other rental property. She intends to sell all three properties to have sufficient funds to purchase an appropriate property to live in with her partner.
13. There are no rent arrears or other tenancy issues. This is a no fault ground in terms of the Respondent's occupation of the tenancy.
14. There are no issues of reasonableness that prevent an order from being granted.

Decision

15. 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.

3rd February 2025

Legal Member/Chair

Date