



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/24/0612

Re: Property at 4 Eskview Terrace, Musselburgh, EH21 6LS (“the Property”)

Parties:

Ms Samantha Dodds, 11 Thomas Burt House, Canrobert Street, London, E2 0BW (“the Applicant”)

Ms Amie Niven, Mr Aaron Williamson, 4 Eskview Terrace, Musselburgh, EH21 6LS (“the Respondents”)

Tribunal Members:

Alastair Houston (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in terms of paragraph 1 of schedule 3 of the 2016 Act.

1. Background

- 1.1 This is an application under rule 109 of the Chamber Rules whereby the Applicant seeks an eviction order on the basis of paragraph 1 of schedule 3 of the 2016 Act, that being that the Applicant intended to sell the property. The application has been accompanied by, amongst other things, copies of the notice to leave given to the Respondents, an agreement with an estate agent with regards to marketing the property for sale and the written tenancy agreement between the parties.
- 1.2 A Case Management Discussion had taken place on 1 October 2024. The application had been adjourned to a hearing as it had been determined that further information with regards to the Applicant’s position was required. The live issue before the Tribunal was whether it was reasonable to grant the order sought.

1.3 Following the Case Management Discussion, the Applicant had lodged a significant volume of documentation pertaining to her financial position and her intention to sell the property.

2. The Hearing

2.1 The Hearing took place on 20 January 2025 by teleconference. The Applicant attended and was represented by Mrs Brown of Blackadders solicitors. The Respondents also attended personally. The First Named Respondent spoke on behalf of both.

2.2 The First Named Respondent confirmed that, essentially, the application was not opposed. Given the Applicant's position and the stress that this was causing all parties, they Respondents believed it best that the order be granted. They believed that further assistance from the local authority with regards to alternative accommodation would then be forthcoming. They had an assigned housing officer having sought assistance following service of the notice to leave. They had not yet obtained an offer of housing through the housing list. If an order were granted, the local authority would carry out a homelessness assessment. Temporary accommodation would be provided if necessary.

2.3 The Applicant's representative confirmed that the Applicant wished to sell the property as she was making a loss on it and could not sustain this given her broader financial position. Should the property achieve the valuation carried out, she would have sufficient proceeds to clear the bulk of the outstanding sum due to her lender in respect of the mortgage over her home in London, whilst lowering her monthly outgoings and liabilities. The Applicant's representative advised that there was no dispute over the Respondent's position. The Applicant herself confirmed that she had mounting debts and that her situation was dire. The fixed rate in respect of the mortgage on her home was due to end in December. After that, payments would be unaffordable. Given the length of time since service of the notice to leave, the Applicant was not keen for the matter to be delayed any further.

2.4 The Tribunal had a short adjournment to consider the position. Given what had been said by the parties and, in particular, the documentation lodged by the Applicant, the Tribunal considered further inquiry to be unnecessary and granted the order sought, subject to a delay in enforcement until 31 March 2025.

3. Reasons For Decision

3.1 There was no factual dispute between the parties at the time of the hearing. The ground on which the eviction order was sought was established by the Applicant. When approaching the question of reasonableness, the Tribunal considered the whole circumstances in which the application was made.

3.2 The Tribunal placed particular weight on the fact that the Respondents wished the order to be granted in order that further assistance would be

received from the local authority. The provisions of the Housing (Scotland) Act 1987 and the duties upon local authorities in respect of persons threatened with homelessness were known to the Tribunal. The Tribunal also noted the Applicant's precarious financial position, as evidenced by the documentation lodged following the Case Management Discussion. The decision to sell the property was clearly reasoned and in the Applicant's interests.

3.3 The Tribunal considered that a delay in enforcement until 31 March 2025 was justified. This was due to there being three young children residing with the Respondents. This delay would allow the local authority to complete any necessary homelessness assessment and begin the process of securing alternative accommodation for the Respondents and their family.

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.

A. Houston

Legal Member/Chair

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20 January 2025
Date