



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 (“the 2016 Act”) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”)

Chamber Ref: FTS/HPC/EV/24/4859

Re: Property at 36 Kenley Road, Renfrew, PA4 8YW (“the Property”)

Parties:

Mr Colin McCready, Mrs Hayley McCready, 80 Benhar Road, Shotts, ML7 5EP (“the Applicant”)

Mrs Charlotte Oliver, 36 Kenley Road, Renfrew, PA4 8YW (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the property be granted.

Background

1. By application received on 21 October 2024, the Applicant applied to the Tribunal for an order for recovery of possession of the property in terms of Section 51 of the 2016 Act. Recovery was sought on the basis of Ground 4 of Schedule 3 to the 2016 Act (landlord intends to live in the property). Supporting documentation was submitted with the application and subsequently, including a copy of the tenancy agreement and Notice to Leave.
2. The application was subsequently accepted by a Legal Member of the Tribunal acting with delegated powers from the Chamber President who issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations dated 10 December 2024. Notification of the application was then made to the Respondent and the date, time and arrangements for a Case Management

Discussion (“CMD”) were intimated to both parties, advising of the date by which any written representations should be lodged. Said notification was served on the Respondent by Sheriff Officer on 17 December 2024. No representations were lodged by the Respondent prior to the CMD.

3. On 8 January 2025, the Applicant’s representative emailed the Tribunal, advising that the Applicant would not be in attendance at the CMD but attaching a detailed letter from the Applicant, explaining their position in relation to the application.

Summary of Discussion

4. A Case Management Discussion (“CMD”) took place by telephone conference call on 27 January 2025 at 10am, attended by the Applicant’s representative, Mr Anderson-Troy, of Penny Lane Homes, letting agents, and by the Respondent, Mrs Charlotte Oliver.
5. Following introductions and introductory remarks by the Legal Member, the Respondent confirmed her position in relation to the application. She was not opposing same and explained that she is about to sign up to a new private let tenancy in the next few days, which will commence this Friday, 31 January 2025. She has already paid her deposit. She will then move out of the Property and expects to finally vacate by 7 February 2025. Mrs Oliver and Mr Anderson-Troy confirmed that Mrs Oliver had advised Mr Anderson-Troy of the position prior to the CMD.
6. Mr Anderson-Troy confirmed that, in the circumstances, he was still instructed to seek an eviction order, as Mrs Oliver had not yet vacated. Mrs Oliver had no objection to this.
7. Reference was made to the letter submitted recently by the Applicant which explained in detail their current personal and family circumstances, their present living arrangements and the reason they require the Property back as soon as possible, in order that they can live there. The Tribunal Members were both of the view that this letter provided sufficient detail for them to be satisfied that the ground for eviction was met and that it was reasonable, in the circumstances and particularly, in the absence of any opposition from the Respondent, for the eviction order sought to be granted today.
8. The Legal Member confirmed that the Tribunal’s Decision would be issued in writing and explained briefly the procedure and 30-day appeal period which would follow. Mrs Oliver confirmed that she understood the position and that she will contact Mr Anderson-Troy to confirm when she is moving out, etc. Both parties were thanked for their attendance at the CMD.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 6 January 2023.
3. A Notice to Leave dated 26 July 2024 was served on the Respondent by email, in accordance with the terms of the tenancy agreement, on 26 July 2024.
4. The date specified in the Notice to Leave as the earliest date a Tribunal application could be lodged was 21 October 2024.
5. The Tribunal Application was received on 21 October 2024.
6. The Applicant intends to live in the Property as their only or principal home for at least 3 months.
7. The Respondent continues to reside in the Property.
8. The Respondent is about to enter into a new tenancy agreement, commencing 31 January 2025 and intends to vacate the Property by 7 February 2025.
9. The Respondent attended the CMD and did not oppose the application.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers, including the application and supporting documentation, the further documentation lodged prior to the CMD and the oral representations made by the Applicant's representative and the Respondent at the CMD.
2. The Tribunal found that the application was in order and that notice had been served timeously and in accordance with the terms of the tenancy agreement and the legislation. The Tribunal was also satisfied that the ground of eviction, that the landlord intends to live in the let property, had been met (Ground 4 of Schedule 3 to the 2016 Act), in that the Tribunal was satisfied that the Applicant intends to occupy the Property as their only or principal home for a period of at least three months and that it was reasonable to issue an eviction order in the circumstances. In considering both the ground of eviction and the issue of reasonableness, the Tribunal had particular regard to the detailed letter from the Applicant which had been submitted to the Tribunal on their behalf on 8 January 2025. It was noted that the Applicant and their 14-year old daughter had returned to Scotland after a period living abroad and required to recover possession of the Property for them to live in as their family home. It was also noted that they have no alternative, permanent accommodation available to them and have been living in a caravan and at friends' homes since returning to Scotland and that their daughter was presently having to live separately from

the Applicant, with grandparents, in the Highlands and be home-schooled. The Respondent's circumstances were also considered by the Tribunal, in particular, the fact that she was not opposed to the application and has now secured alternative accommodation which she is due to move into imminently.

3. The Tribunal unanimously determined that an order for recovery of possession of the Property could properly be granted at the CMD, there being no requirement for the application to be considered at an Evidential Hearing.

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.

N.Weir

Legal Member/Chair

27 January 2025
Date