



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/24/2259

Re: Property at 51 Hillend Crescent, Clydebank, G81 6HL (“the Property”)

Parties:

Mr John McBride, 2 Cardhu Gardens, Kilmarnock, KA3 1QY (“the Applicant”)

Ruth Kane, 51 Hillend Crescent, Clydebank, G81 6HL (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it could decide the application without a Hearing and that it was reasonable to issue an Eviction Order against the Respondent.

Background

1. By application dated 16 May 2024, the Applicant sought an Eviction Order against the Respondents under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 1 of Schedule 3 to the 2016 Act, namely that the landlord intends to sell the Property.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, which commenced on 2 October 2018 at a rent of £460 per month, and a Notice to Leave dated 13 February 2024 advising the Respondent that an application to the Tribunal under Ground 1 would not be made before 10 May 2024. The application stated that for health reasons the Applicant no longer wished to be a landlord. The Applicant’s agents provided the Tribunal with an email from the Applicant in which he stated that he had not engaged any solicitor or estate agent and that this would be decided when he had possession of the Property and the agents could get access to give their opinion, recommendations and value.

3. On 15 January 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 5 February 2025. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the morning of 27 February 2025. The Applicant was represented by Mr Kris Brown of Source Property (Scotland) Limited, Clydebank. The Respondent was not present or represented.
5. The Applicant's representative told the Tribunal that the Applicant has been diagnosed with cancer and is terminally ill. He has been advised to avoid stress and variables in his life. He has a number of rented properties which he is selling off as tenants vacate. The Respondent is the sole occupant of the Property and the Applicant's representative was unaware of her having any health issues or vulnerabilities. He did not know if she is in employment locally but believes she may be reliant on benefits. The Applicant has had no issues with the Respondent. Selling the Property with a sitting tenant was not a realistic option, however, as the rent is very low compared with open market rents in the area and the Respondent has a number of cats.

Reasons for Decision

6. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
7. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies. Ground 1 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the landlord intends to sell the let property and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell and intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts.
8. The Tribunal was satisfied from the evidence provided by the Applicant's representative that the Applicant intends to sell the Property. Accordingly, the only matter for the Tribunal to decide was whether it would be reasonable to issue an Eviction Order.
9. The Tribunal noted the information provided regarding the Applicant's deteriorating health and his need to avoid stress and uncertainty. The Tribunal also noted that the Respondent had not made any written representations to

the Tribunal and had chosen not to attend or be represented at the Case Management Discussion.

10. Having considered carefully all the evidence before it, the Tribunal decided that it would be reasonable to issue an Eviction Order.

11. The Tribunal's Decision was unanimous.

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.

G.Clark

Legal Member/Chair

27 February 2025
Date