



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/24/2823

Re: Property at 28 Carrick Knowe Drive, Carrick Knowe, Edinburgh, EH12 7EB (“the Property”)

Parties:

Craig Morrison Trustee in Sequestration of Lend, c/o Quantuma LLP 2, Turnberry House, 175 West George Street Third Floor, Glasgow (“the Applicant”)

Nicola Crossan, 28 Carrick Knowe Drive, Carrick Knowe, Edinburgh, EH12 7EB (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted against the respondent

Introduction

This is an application under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The application seeks an eviction order.

Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the respondent by Sheriff Officers on 8 January 2025.

The CMD took place by teleconference on 19 February 2025. The applicant was represented by Mr Gregory Smart of Gilson Gray LLP. The respondent joined personally and represented her own interests.

Findings and Reasons

The property is 28 Carrick Knowe Drive, Edinburgh EH12 7EB. The applicant is Craig Morrison Trustee in Sequestration of Lend c/o Quantuma LLP, 2 Turnberry House, 175 West George Street, Third Floor, Glasgow G2 2LB. The respondent is Ms Nicola Crossan who is the tenant.

A private residential tenancy was entered into which commenced on 1 February 2021. The heritable proprietor and landlord was Mr Lendrick Gillies. The rent, in terms of the lease, was £825 per calendar month payable in advance.

On or about 23 January 2024 Mr Gillies issued a Notice to Leave to the respondent by Sheriff Officers. The grounds for eviction quoted in the Notice to Leave were grounds 1 and 1A. The Notice to Leave expired on 17 April 2024. Sufficient statutory notice was given. Ground 1A is no longer a relevant ground for eviction and is not relied upon.

Mr Gillies was sequestrated by the Accountant in Bankruptcy on 11 June 2004. The applicant for eviction, Mr Craig Morrison, had been appointed to act as Trustee of Mr Gillies pursuant to section 78(1) of the Bankruptcy (Scotland) Act 2016. A relevant copy of the extract of the Registers of Insolvencies has been produced. Title to the property vests in the applicant Mr Morrison.

The applicant in his role as Trustee has determined that the let property should be sold. There are significant mortgage arrears and the property faces imminent repossession by the mortgage lender if it cannot be sold on a voluntary basis. The applicant has agreed his proposed actions to obtain vacant possession and to sell the property with the heritable creditor which has already served Calling Up Notices. Evidence of the agreement from the heritable creditor confirming the position has been produced. Gilson Gray LLP has been instructed by the applicant in the sale of the property once vacant possession has been obtained. A copy of the estate agency mandate has been produced.

The tribunal was satisfied on the basis of the credible and reliable documentary evidence produced which is unchallenged that it is the applicant's genuine intention to sell the let property.

The tribunal proceeded to consider the issue of reasonableness of making of an eviction order. The tribunal weighed up the respective circumstances and needs of the parties.

The respondent is unopposed to the application. She does not work and is the single parent of one child. She is in active discussions with the Council and has been offered a tenancy which she can take occupation of in a couple of weeks. The granting of an eviction order will assist her in the allocation of that tenancy. She is willing to vacate.

A relevant Section 11 notice has been issued to the relevant local authority. The tribunal was satisfied that that the respondent will be provided with alternate accommodation in the event of an eviction order being made against her.

Weighing up the respective circumstances of the parties, the tribunal concluded that it was reasonable to grant the eviction order.

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.

Richard Mill

19 February 2025

Legal Member/Chair

Date