



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, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/EV/24/3560

Re: Property at 25 Cleghorn Street, Flat Ground/R, Dundee, DD2 2NL (“the Property”)

Parties:

F&M Property (Dundee) LTD, 17 Etive Gardens, Dundee, DD2 4JQ (“the Applicant”)

Mr Kais Abbassi, 25 Cleghorn Street, Flat Ground/R, Dundee, DD2 2NL (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. By application received on 5 August 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 against the Respondent. The application sought recovery in terms of Ground 1 of Schedule 3 to the 2016 Act (landlord intends to sell). Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, the Notice to Leave/proof of service of same, the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003/proof of service of same and evidence in support of the ground, namely copy communications with Remax estate agents and the Respondent regarding a proposed valuation of the Property.

2. Following initial procedure, on 29 October 2024, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. Notification of the application and details of the Case Management Discussion ("CMD") fixed for 26 March 2025 was served on the Respondent by way of Sheriff Officer on 20 February 2025. In terms of said notification, the Respondent was given until 8 March 2025 to lodge written representations. No written representations were lodged by or on behalf of the Respondent prior to the CMD.

Case Management Discussion

4. A Case Management Discussion ("CMD") took place by telephone conference call on 26 March 2025 at 10am, attended only by the Applicant, Mr Mohammed Maki of the Applicant company and Ms Nadia Ahmed who was attending in a supportive capacity only. Commencement of the CMD was delayed for 5 minutes to give the Respondent an opportunity to join late, but he did not do so.
5. Following introductions and introductory remarks by the Legal Member, Mr Maki was asked about the application and any recent contact with the Respondent. He confirmed that the Applicant is still intending to sell and that there has been no further progress with getting the Property valued by Remax. This is because, although the Respondent initially seemed to be being cooperative, he then stopped communicating with Mr Maki and does not respond to calls or text messages. They have had no recent discussions regarding the eviction application and he does not know whether the Respondent has applied for social housing or looked for alternative accommodation. Mr Maki said that the only time the Respondent contacts him is if he wants something in relation to the property, such as a leak fixed. There are no issues with rent as the rent is paid direct from the Respondent's benefits. The Respondent lives alone, is estimated to be around 35-40 years old and is in receipt of benefits. Mr Maki does not know if the Respondent has part-time work or is totally reliant on state benefits.
6. Mr Maki confirmed that he and his partner wish to sell the Property as they need the sale proceeds. There is no mortgage over this property. They have six flats in this building that they rent out and one in another area of Dundee. They will be looking to sell other properties in the future but they cannot sell all the properties at once. This particular property was done up in 2014 and they think they can achieve a better sale price by carrying out some minor works to get it ready for the market. The other properties in the building are not of the same standard and would be unlikely to achieve as good a price. Mr Maki does not consider this is a good time to try and sell their other properties as he has a family member who was recently trying to sell elsewhere in Dundee but found it difficult. They need to recover possession of this Property so that they can move on with getting it valued, a Home Report prepared and it placed on the market.

7. The Tribunal Members adjourned to discuss the application in private and, on re-convening, confirmed that the Tribunal had decided to grant the eviction order sought and that the documentation would follow. Mr Maki was thanked for his attendance at the CMD.

Findings in Fact

1. The Applicant company 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 1 December 2018.
3. The Applicant intends to sell the Property and to market it for sale as soon as possible and within 3 months of obtaining vacant possession, having already instructed an estate agent to value the Property.
4. A Notice to Leave in proper form and giving the requisite period of notice (84 days) was sent both by Recorded Delivery post on 8 April 2024 and by email on 9 April 2024 to the Respondent, in accordance with the terms of the tenancy agreement.
5. The date specified in the Notice to Leave as the earliest date the eviction Application could be lodged with the Tribunal was specified as 8 July 2024.
6. The Tribunal Application was submitted on 5 August 2024.
7. The Respondent remains in possession.
8. The Applicant's reasons for wishing to sell are financial and they require the free proceeds of sale.
9. The Respondent initially indicated that he would allow the Property to be valued but stopped communicating with the Applicant regarding the matter around August 2024.
10. The Respondent did not lodge any written representations nor attend the CMD.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, and the oral information provided at the CMD by the Applicant company's Mr Maki.
2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the requisite period of notice (84 days) had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the tenancy agreement and the relevant provisions of the 2016 Act.

3. The Tribunal considered that the ground of eviction, that the landlord intends to sell (Ground 1 of Schedule 3 to the 2016 Act, as amended) was satisfied in that all elements of Ground 1 were met and that it was reasonable, having regard to all of the circumstances known to the Tribunal, to grant the eviction order sought. The Tribunal had noted that there was supporting documentation with the application from an estate agent who was instructed to value the Property with a view to it being marketed for sale. Mr Maki had explained the reasons behind their decision to sell this particularly property which were essentially financial in nature. It was expected that this particular Property would achieve a better sale price in the current market conditions in Dundee. The Applicant requires to recover the free proceeds of sale. The Tribunal was satisfied from the information provided in the supporting documentation and by Mr Maki that the Applicant has a genuine intention to sell as soon as possible, for the reasons stated and that a valuation had already been instructed through an estate agent. The Tribunal noted that Mr Maki's attempts to engage with the Respondent in this regard dated back to April 2024, following notice being served and continued for several months before the Respondent stopped communicating with Mr Maki.
4. The Tribunal also noted the information that Mr Maki had provided regarding the Respondent's circumstances, that he lived alone in the Property and is reliant on state benefits to pay his rent. However, the Respondent was aware of the Tribunal proceedings and had chosen not to make written representations on his own behalf nor attend the CMD. In all the circumstances, the Tribunal considered it reasonable to grant the eviction order sought.
5. The Tribunal did not have any material before it to contradict the Applicant's position, nor to indicate that the Respondent was opposing the eviction. The Tribunal accordingly determined that an order for eviction could properly be granted at the CMD as there were no facts in dispute nor any other requirement for 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

28 March 2025
Date