



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/24/3617

Re: Property at 5 Deantown Drive, Musselburgh, EH21 8NT (“the Property”)

Parties:

Mr Neil Mack, Mrs Catherine Mack, 12 Carlaverock Grove, Tranent, EH33 2EB; 12 Carlaverock Grove, Tranent, East Lothian, EH33 2EB (“the Applicant”)

Joanna Glass, 5 Deantown Drive, Musselburgh, EH21 8NT (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Angus Lamont (Ordinary Member)

Decision

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

Background

1. An application was received by the Housing and Property Chamber dated 7th August 2024. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 3rd March 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 9th April 2025 at 10am by teleconferencing. The letter also requested all written representations be submitted by 24th March 2025.
3. On 5th March 2025, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 5th March 2025.

The Case Management Discussion

4. A CMD was held on 9th April 2025 at 10am by teleconferencing. The Applicants were not present but were represented by Mrs Dawn Calin, Senior Associate, iResolve Legal. The Respondent was present and represented herself.
5. Mrs Calin said that the Applicants do not own any other properties which they rent out. They now wish to retire as landlords and sell the Property. The funds from this sale will be used to assist their private and state pensions. Mrs Calin said that there were no issues with the tenancy. There were no rent arrears and no antisocial behaviour problems. The Applicants simply just wished to retire.
6. The Respondent said that she was not opposed to the order being granted. She is working with her local authority for emergency housing. She has been told that this cannot advance until such time as an order has been granted. She is in a three bedroom property with her two sons who are aged 10 and 12 and her 15 year old daughter. Her sons share a room with is increasingly difficult due to one of her son's support needs. She is seeking a four bedroomed property from her local authority. She has spoken to the local authority about being close to her children's schools. All three go to different schools. However, the Respondent said that she had a lot of family support and did not anticipate an issue with moving house prior to the end of the school year.
7. The Tribunal considered that it was reasonable to grant an order for eviction on the basis of the evidence that it had before it.

Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 1st November 2023.
9. The Applicants wish to sell the Property as they wish to retire from being landlords. This is the only property which they have as a rental property.
10. The Respondent does not oppose an order being granted. She is liaising with her local authority about being rehoused into a house that is appropriately sized for her family.
11. There are no tenancy issues. There are no issues with either rent arrears or antisocial behaviour.
12. There are no issues of reasonableness that prevent an order from being granted.

Decision

13. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant.

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.

Gabrielle Miller

9th April 2025

Legal Member/Chair

Date