



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/24/3911

Re: Property at 6 Ruthven Green, Glenrothes, KY7 4SQ (“the Property”)

Parties:

Andrew McIntosh, Ruth McIntosh, 24 Braemar Gardens, Glenrothes, KY6 2RF (“the Applicant”)

Mr Sean Patrick Payne, 6 Ruthven Green, Glenrothes, KY7 4SQ (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Jane Heppenstall (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 22nd 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 15th February 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 26th March 2025 at 10am by teleconferencing. The letter also requested all written representations be submitted by 8th March 2025.

3. On 18th February 2025, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 18th February 2025.

The Case Management Discussion

4. A CMD was held on 26th March 2025 at 10am by teleconferencing. The Applicant was not present but was represented by Mr Jackson Deane, Trainee Solicitor, Bannatyne Kirkwood France & Co. The Respondent was present and represented himself.
5. Mr Deane said that the Applicants are restructuring their lives. The First Named Applicant is changing his job which will mean a decrease in his income. There are numerous costs with being a landlord and many regulations which are together causing the Applicants stress. Their children are at university now and they also wish to support them financially. They cannot do this without selling this property. They own three rental properties. They are seeking an order for eviction from the Housing and Property Chamber to allow them to sell one of the other properties. Mr Deane did not know what was to happen with the third property. Mr Deane was not aware of the time scale for selling the Property or if investigations had been undertaken to enquire about selling the Property with a sitting tenant.
6. The Respondent said that he was not able to oppose an order being granted. He is a single father of a 12 year old daughter. She is in her first year of high school. She is asthmatic, which is controlled by medications. He has registered as homeless with his local authority. He has been told that he will be allocated a temporary property once he is evicted with an 18 month waiting period before being provided with a permanent tenancy. He is also working with Right Move to see if he can obtain a private tenancy. He has been told that there are properties going on the market within a week. He is very concerned about where he will go with his daughter. She lives with him 5-6 days per week. He is also concerned that as he works from home for a bank he needs his employer to give him authority to use his computer and other items from an address.
7. The Tribunal was satisfied that it was appropriate to grant an order for eviction particularly given that the Respondent was not opposing an order being granted. However, the Tribunal was aware that moving at this time of year could greatly affect the Respondent's 12 year old daughter as she is in her first year of high school. The Tribunal considered it fair, reasonable and appropriate to supersede the Order until 30th June 2025 to allow for the end of the school year to pass before the Respondent was evicted. The Tribunal noted that the Respondent is actively seeking to find another property. Should he find an alternative property he is not prohibited from giving his notice to the Applicant's and leaving before the end of the superseded period.

Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 24th June 2022.

9. There are no tenancy issues which are causing the Applicants to want to sell the Property. This is a no fault ground of eviction with regard to the Respondent.
10. The Applicants wish to sell the Property due to a change in their own financial circumstances. There is a separate application for eviction with regard to a second property that they own. It is their intention to sell that one too.
11. The Respondent did not consider that he was in a position to oppose an order being granted. He wanted enough time to ensure that he has a property to go to with his daughter. The Tribunal considered it appropriate to supersede the order to allow him to find alternative accommodation given that she is 12 years old and in her first year of high school.
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. The order is superseded until 30th June 2025.

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 Miller

26th March 2025

Legal Member/Chair

Date