



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016

Reference number: FTS/HPC/EV/24/3062

Order granted on 28 April 2025

Property: 40A Argyll Avenue, Dumbarton, G82 3NS

Parties:

Ronnie Kerr and Suzanne Kerr, residing at 13 Stratton Drive, Giffnock, G46 7AB (“the Applicants”)

Rhona MacQueen, residing at 40A Argyll Avenue, Dumbarton, G82 3NS (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)
Janine Green (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1 of part 3 of schedule 3 to the 2016 Act.

Background

The Applicants seek recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the “2016 Act”). The Applicants have lodged Form E with the Tribunal. The documents produced include a Tenancy Agreement, a Notice to leave, served on 5 April 2024, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy title sheet was lodged with the Tribunal which showed that the applicants are joint heritable proprietors of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 10.00am on 28 April 2025. The Applicants were represented by Mr S Barriskell of SB Property Ltd. The Respondent was present and unrepresented. The Respondent told us that she understands why the application is made. The Respondent has made applications for alternative housing without success. The Respondent told us she does not oppose the application and that she has applied to the local authority for housing.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicants and the Respondent entered into a private residential tenancy Agreement for the Property dated 19 September 2019.
2. The rent in terms of the Tenancy Agreement was £325 per month.
3. The applicants want to sell the property. They instructed estate agents on 26 March 2024.
4. On 5 April 2024 the Applicants served a notice to leave on the Respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 4 July 2024, the Applicants submitted an application to the tribunal.
5. The Applicants seek recovery of possession of the Property in terms Ground 1 of schedule 3 to the 2016 Act. The Applicants are entitled to sell the property. The Applicants intend to sell the property for market value and will advertise the property for sale on the open market within three months.
6. The Respondent remains in the property but has been trying to find affordable alternative accommodation. The Respondent is single and has no dependents. She is in good health and is in paid employment. She remains in contact with the local authority who will support her application for housing.
7. The Respondent does not resist the application for repossession. It is reasonable to grant an order for repossession of the property.

Reasons for the Decision

8. The Applicants seek recovery of possession of the Property in terms of Ground 1 of schedule 3 to the 2016 Act. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

9. The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in terms of Ground 1 of schedule 3 to the 2016 Act is established.

10. The Respondent offers no resistance to the application. In all the circumstances, it is reasonable to grant an order for possession.

11. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1 of part 3 of schedule 3 to the 2016 Act.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Paul Doyle

Paul Doyle
Legal Member

28 April 2025