

Housing and Property Chamber
First-tier Tribunal for Scotland



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/19/2717

Re: Property at 57 Ladywell Avenue, Dundee, DD1 2LA (“the Property”)

Parties:

Mr Nasim Rafi, 49 Clepington Road, Dundee, DD4 7EL (“the Applicant”)

Miss Sara Stirling, Mr Steven Armit, 57 Ladywell Avenue, Dundee, DD1 2LA (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

1. An application was received by the Housing and Property Chamber on 29th August 2019. It was dated 23rd August 2019. 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 the Respondent not adhering to ground 1 of the Private Housing (Tenancies) Act 2016.
2. The application included:-
 - a. Copy Scottish Government Model Private Residential Tenancy Agreement with commencement of tenancy being 2nd April 2018;
 - b. Notice to Leave signed 26th April 2019 stating an application would not be submitted to the Tribunal before 22nd July 2019 and noting that Schedule 3 ground 1 was of issue along with execution of service 29th April 2019 which was served by letter box delivery by Sheriff Officers and sent by first class post;

- c. Section 11 notice noting proceedings would not be raised before 23rd August 2019; and
 - d. Print off schedule of sale by Right Move pertaining the Property.
 - e. Offer letter from RBS Lindsay's solicitors dated 2nd July 2019.
3. The Tribunal also had before it a copy of the title deeds numbered ANG33800.
 4. On 27th September 2019, all parties were written to with the date for the Case Management Discussion ("CMD") of 18th October 2019 at 10am at Carers Centre, Seagate, Dundee. The letter also requested all written representations be submitted by 26th September 2019.
 5. On 30th September 2019, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondents by letterbox service and first class post. This was evidenced by Certificate of Citation dated 30th September 2019.

The Case Management Discussion

6. A CMD was held on 1st November 2019 at 10am at Carers Centre, Seagate, Dundee.
7. Neither the Applicant nor the Respondents appeared. There was no notification of any reason why the parties did not attend.

Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 2nd April 2019.
9. The Appellant has engaged Right Move regarding the sale of the Property.
10. The Applicant has received an offer to purchase the Property. This offer was made on 2nd July 2019 and was above the asking price.
11. The Applicant has been unable to accept the offer until such time as the Respondents have left the Property.
12. Neither party attended the hearing.

Decision

13. The Applicant has taken steps to show that the Property is being marketed for sale insofar as schedule of sale and offer to purchase has been lodged. However, as the Applicant failed to attend the hearing it was unclear if the Order was still necessary. On this basis it was unclear to the Tribunal that the Applicant was still trying to sell the Property, if the Property was still being

marketed, if the offer was still on to be considered or if the Respondents were still residing in the Property the Tribunal decided that it was appropriate and proportional to dismiss the case.

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.



Legal Member/Chair

1st November 2019

Date