



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/19/3838

Re: Property at 101 Main Street, 10 Burgess Mews, Neilston, G78 3NH (“the Property”)

Parties:

Mrs Angela Sneddon, The Dam House, Gateside Road, Barrhead, G78 1TT (“the Applicant”)

Ms Moira Smith, 101 Main Street, 10 Burgess Mews, Neilston, G78 3NH (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.

Background

By application, dated 2 December 2019, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 1 of Part I of Schedule 3 to the 2016 Act, namely that the Applicant intends to sell the Property.

The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties commencing on 8 July 2019, a Notice to Leave dated 2 September 2019, advising the Respondent that the Applicant intended to apply to the Tribunal for an Eviction Order under Ground 1 of Schedule 3 to the 2016 Act and that the application would not be made before 28 November 2019, with evidence of its being sent to the Respondent by e-mail on 2 September 2019, and a letter from The Property Store, East Kilbride dated 2 September 2019, acknowledging instructions to act as the Applicant’s agents in the sale of the Property. The letter stated that they would instruct a Home Report and prepare a pdf brochure.

On 24 December 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 14 January 2020. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at Glasgow Tribunals Centre, York Street, Glasgow on the morning of 28 January 2020. The Applicant was represented by Heather Fraser, Lettings Manager and Rachel Trevithick, Senior Tenancy Manager of The Property Store, East Kilbride. The Respondent was not present or represented.

The Applicant's representatives told the Tribunal that the Applicant owned a number of properties and, when they had taken over from a previous letting agent, they had advised the Applicant that the Property did not represent a good investment, as it was not factored and the common stair was not in a good condition. Their recommendation had been that the Applicant should sell the Property and she had accepted that recommendation. Her intention was to put the Property on the market as soon as she practicably could, after the Respondent vacated it. A Home Report had not yet been instructed, because such Reports have a limited shelf life.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the Eviction Ground named in Schedule 3 to the Act applies. Ground 1 of Part I of Schedule 3 to the 2016 Act states that it is an Eviction Ground that the landlord intends to sell the let property, and that the Tribunal must find that Ground 1 applies if the landlord is entitled to sell the Property, and intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it. Ground 12 also provides that evidence tending to show that the landlord has the intention to sell or at least put the Property up for sale includes (for example) a letter of engagement from a solicitor or estate agent concerning the sale of the let property or a recently prepared Home Report.

The Tribunal was satisfied that the Applicant was entitled to sell the Property. The Tribunal also accepted the explanation given by the Applicant's representatives that they had recommended to the Applicant selling the Property and had been instructed to act in the sale and was satisfied, on the basis of the evidence before it, that the Applicant's intention to sell the Property was fixed and settled. Accordingly, the Tribunal was bound to issue an Eviction Order under Ground 1 of Schedule 3 to the 2016 Act.

Decision

The Tribunal determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.

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 Clark

Legal Member/Chair

28 January 2020

Date