

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/22/1229

Re: Property at 65 Bankton Park East, Livingston, West Lothian, EH54 9BW (“the Property”)

Parties:

Mrs Angela Findlay, 94 Gogarbank, Edinburgh, EH12 9DD (“the Applicant”)

Mr Cledwyn Mandaza and Mrs Michelle Mnemo, both 65 Bankton Park East, Livingston, West Lothian, EH54 9BW (“the Respondents”)

Tribunal Members:

George Clark (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

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 Respondents.

Background

By application, received by the Tribunal on 28 April 2022, the Applicant sought an Eviction Order against the Respondents under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Ground relied on was Ground 4 of Schedule 3 to the Act, namely that the Applicant intends to live in the Property.

The application stated that the Applicant and her husband had been in tied accommodation linked to her husband’s employment. Unfortunately, her husband had died, and his employers require the property back.

The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties commencing on 14 September 2020, a Notice to Leave dated 3 January 2022, which set out the reason for the Applicant requiring the Property back and advised that no application for an Eviction Order would be made to the Tribunal before 5 April 2022.

On 27 July 2022, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 17 August 2022. The Respondents did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the afternoon of 8 September 2022. The Parties were all in attendance.

The Applicant told the Tribunal that her late husband had been employed by Science Advice for Scottish Agriculture and that as a condition of his employment he had to live in tied accommodation on his employers' farm. His employers had given the Applicant notice, which expired on 25 May 2022. They had been very understanding but needed to have the property back. As it was a tied house, there was no formal lease. The Applicant stated that she did not own any other properties.

The Respondents told the Tribunal that they had been looking for alternative accommodation since hearing of the Applicant's unfortunate situation but had to date been unsuccessful. They had registered with the local authority and all local Housing Associations. The local authority had indicated that they would not consider them for rehousing unless an Eviction Order had been made. The Respondents live with two children, who attend local schools and Mrs Mnemo is expecting another baby. They understood the position of the Applicant and were not contesting her right to seek an Eviction Order.

Reasons for Decision

Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the Act") provides that the Tribunal is to issue an Eviction Order against the tenants under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 to the Act applies.

Ground 4 of Schedule 3 to the Act states that it is an Eviction Ground that the landlord intends to live in the let property and that the Tribunal must find that Ground 4 applies if the landlord intends to occupy the let property as the landlord's only or principal home for at least three months and the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of that fact.

The Tribunal noted that the Applicant was under pressure to vacate the tied house in which she is living and that she does not own any other properties. The Respondents sympathised with her situation and consequently they did not oppose an Eviction Order.

The Tribunal considered carefully all the evidence, written and oral, before it and decided that the requirements of Ground 4 of Schedule 3 to the Act had been met and that it was reasonable to issue an Eviction Order on account of the fact that the Applicant intended to live in the Property.

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

8 September 2022
Date