



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/20/1493

Re: Flat 1/2, 3 Brucefield Place, Glasgow G34 0DX (“the property”)

Parties:

Jane Stevenson, Flat 11, 18 Brucefield Place, Glasgow G34 0DX (“the applicants”)

William Gowans, Flat 1/2, 3 Brucefield Place, Glasgow G34 0DX (“the respondent”)

Tribunal Member:

Adrian Stalker (Legal Member)

Decision (in absence of the respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’):

(1) Allows the address of the property to be amended from “Flat 1/2, 3 Brucefield Place, Glasgow G34 0DT” to “Flat 1/2, 3 Brucefield Place, Glasgow G34 0DX”;

(2) Determines that the requirements of section 51 of, and paragraph 1 of schedule 3 to, the Private Housing (Tenancies) (Scotland) Act 2016 are met, and therefore, the Tribunal grants an eviction order in favour of the applicant.

Background

1. In January 2018, the applicant let the property to the respondent, under a private residential tenancy.

2. By an application to the First-tier Tribunal dated 10 July 2020, the applicant sought an eviction order under section 51 of the 2016 Act, on the ground that she intended to sell the property, being the ground set out in paragraph 1 of schedule 3 to the Act. The application was accompanied by a notice to leave served on the respondent, specifying ground 1.

3. On 9 August, notice of acceptance was granted by a legal member. A Case Management Discussion (“CMD”) was fixed for 17 September 2020, at 2pm, by teleconference call.

4. At the same time, the legal member issued a direction, requiring the applicant to produce:

- Evidence of the engagement of an estate agent, given that a letter produced along with the application, from Countrywide, was undated.
- Evidence of service on the local authority of the notice under section 11 of the Homelessness etc. (Scotland) Act 2003
- Clarification of the postcode of the property.

The CMD

5. The CMD duly took place, by teleconference call, on 9 July 2020. Ms Shannon Gaughan, solicitor, Clarity Simplicity Solicitors, agents for the applicant, appeared on her behalf.

6. As at 2:10pm, neither the respondent, nor any person appearing on his behalf, had entered the teleconference. Accordingly, the respondent did not appear, and was not represented, at the CMD. The Tribunal member had sight of a certificate of execution of service by sheriff officers, confirming that the Tribunal’s letter of 20 August, intimating the date and time of the CMD, had been served on the respondent on 24 August. The respondent has not, at any time, played any active role in the proceedings relating to this application. He made no representations to the Tribunal, in advance of the CMD.

7. Under rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, the First-tier Tribunal may do anything at a CMD which it may do at a hearing, including: hearing the case in the absence of one of the parties (rule 29), and making a decision. In the circumstances, the Tribunal was satisfied, under rule 29, that it was appropriate to proceed with the hearing, in the respondent’s absence. Ms Gaughan asked the Tribunal to grant an order for recovery of possession, under section 51 of the 2016 Act.

Findings in fact; reasons for decision

8. In response to the aforementioned direction, the applicant's agents had produced a letter from Countrywide Estate Agents, dated 21 August 2020. That provides a valuation of the property, and offers to market the property, quoting a fee. In addition, evidence of service on the local authority of the notice under section 11 of the 2003 Act had been produced. The applicant's agents had also confirmed that the correct postcode for the property is G34 0DX.

9. An affidavit was also produced, which was sworn by the applicant on 2 September 2020. The salient points of the affidavit are as follows:

- The applicant is 68 years old. She is retired.
- She is the owner of the property and the sole landlord under the lease.
- She let the property to the respondent in January 2018.
- The applicant suffers from several quite serious health conditions, which are described in the affidavit.
- She lives with her husband, who is 75. They share responsibility for caring for their son, who is disabled. Their son lives in another flat, but they care for him.
- She feels that, given her health condition, and the requirement to care for her son, that she no longer wishes to have the burden of being the landlord of the property. She wishes to sell the property, in order to release the equity as soon as possible.

10. Ms Gaughan confirmed that the applicant intends to sell the property, or at least market it for sale, within three months of the respondent ceasing to occupy it.

11. The Tribunal had obtained a title sheet for the property, confirming that the applicant is the sole owner.

12. In the circumstances, there being no contradictory evidence from the respondent, the Tribunal found in fact:

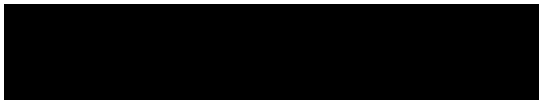
- (a) the applicant is entitled to sell the let property, and
- (b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it.

Decision

13. Therefore, the Tribunal further found that ground 1 of schedule is established, and it is required to make an eviction order under section 51(1) of 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.



Adrian Stalker
Legal Member

Date: 17 September 2020