

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 and Ground 1 of Schedule 3 Part 1 of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/18/1705

Re: Property at The Former Lochend Church, Beeswing, Dumfries, DG2 8PE ("the Property")

Parties:

Miss Carla Lynch, 35 Mill Lane, Oxted, Surrey, RH8 9DF ("the Applicant")

Mr Keith Bulman, The Former Lochend Church, Beeswing, Dumfries, DG2 8PE ("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 that the application should be granted and an Eviction Order issued.

Background

By application, received by the Tribunal on 9 July 2018, the Applicant sought an Eviction Order against the Respondent. The application was accompanied by an undated Rent to Buy Agreement between the Parties and the application stated that the tenancy had commenced on 25 January 2018.

The application was accompanied by a print of an advertisement on the website of rightmove.co.uk, advertising the Property for sale. The print was dated 30 May 2018. The application was also accompanied by a copy of a Notice to Leave, addressed to the Respondent, dated 25 January 2018. The Notice to Leave stated that the Eviction Ground being used was that the Applicant intended to sell the Property.

On 8 September 2018, the Tribunal advised the Parties in writing that a Case Management Discussion would be held on 3 October 2018 and advised the Respondent to make written representations by 25 September 2018. The Respondent did not make any written representations.

Case Management Discussion

A Case Management Discussion was held at Lochvale House, Georgetown Road, Dumfries on the afternoon of 3 October 2018. The Applicant was represented by Alistair Stevenson of McJerrrow and Stevenson, solicitors, Lockerbie. The Respondent was neither present nor represented.

The Applicant's representative told the Tribunal that the Rent to Buy Agreement had been sent to the Respondent prior to its commencement, but he had not signed and returned it to the Applicant. The Applicant's intention to sell the Property had been clearly evidenced and he asked the Tribunal to decide the application without a hearing.

Reasons for Decision

Rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that "The First-tier 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 that it required in order to make a decision and that, as the Respondent had not made any written representations and was not present or represented, it was able to decide the application without a hearing.

The Tribunal had seen a copy of the Rent to Buy Agreement. It was undated and unsigned, but the Tribunal accepted the evidence led by the Applicant's representative that it had been sent to the Respondent, who had failed to return it, but that the Respondent had acted on the faith of the Agreement by moving in to the Property.

The Tribunal had seen copies of the Notice to Leave and the advertisement of the Property for sale and was satisfied that the advertisement satisfied the test set out in Ground 1 in Schedule 3 Part 1 to the Private Housing (Tenancies) (Scotland) Act 2016, namely that the Tribunal must find that Ground 1 applies if the landlord is entitled to sell the let property and intends to sell it for market value. The Tribunal had seen evidence that the Applicant is the owner of the Property and is, therefore, entitled to sell it.

Decision

The Tribunal decided to grant the application and to issue an Eviction Order, in terms of Section 51 and Ground 1 of Schedule 3 Part 1 of the Private Housing (Tenancies) (Scotland) Act 2016.

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.

George Clark

Legal Member/Chair

3 October 2018

Date