



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under the Section 5(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/22/0853

Property: 34 Clayhills Drive, Dundee DD2 1SX (“the Property”)

Parties: Dr Mahmoud Ashour, Heath View, Faraday Road, Maidstone, Kent ME14 2DB (“the Applicant”)

Dr Abdelmunsef Amansori, Mrs Maryam Elmansuri, 34 Clayhills Drive, Dundee DD2 1SX (“the Respondent”)

Tribunal Members:

Mark Thorley (Legal)
Eileen Shand (Ordinary)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that an order of eviction be granted but that the eviction should not take place for a period of 3 months

Background

1. The applicant applied to the tribunal by application dated 23 March 2022. Accompanying the application were the following:
 - (a) Letter from Martin & Co
 - (b) Notice to Leave
 - (c) Proof of posting with track and trace
 - (d) Email delivery notification
 - (e) Section 11 Notice to Dundee City Council
 - (f) Proof of posting
2. The application was acknowledged by the tribunal on 25 March 2022. On 12 April 2022 the application was accepted for determination and intimation to parties was sent out on 5 May 2022.
3. No written representations were received from the respondent.

Case Management Discussion

4. At the case management discussion Mr Campbell from Campbell Both Solicitors attended for the applicant. Both the respondents were also present on the teleconference.
5. The respondents indicated that they had hoped to remain within the property for a period of five years. Dr Amansori said he had certain medical conditions and that although acknowledging he received a Notice to Leave in August 2021 had attempted to find alternate accommodation without any success. The respondents acknowledged that the applicant was entitled to recover the property. The property was four bedrooms and there were six people within the property although all the children of the respondents were 16 or over.
6. Mr Campbell on behalf of the applicant indicated that the applicant did wish to sell the property. Martin & Co were instructed to do that. He was entitled to recover the property.

Findings in Fact

7. The parties entered into a private residential tenancy for the property at 34 Clayhills Drive, Dundee DD2 1SX on 27 and 30 November 2020.
8. The applicant provided Notice to Leave to the respondents on 27 August 2021.
9. The applicant has instructed Martin & Co to sell the property.
10. The respondents have been attempting to obtain alternate accommodation.

Reasons for decision

The respondents acknowledged that they received the paperwork regarding a Notice to Leave. They also acknowledged that the applicant was entitled to recover the property for the purpose of selling. The applicant had lodged a letter from the proposed selling agents confirming that he wanted to sell the property.

The respondents indicated that they would like to continue to live in the house but acknowledged that they could not do so. They had tried to find alternate accommodation. They had approached both the Council and housing associations. They had not been able to find alternate accommodation as yet.

The tribunal took the view that the applicant had provided sufficient information to the tribunal by way of written paperwork and through oral submissions from his agent that he wished to

sell the property. The respondents did not in any event oppose the application. Their concern was mainly on finding alternate accommodation.

The tribunal therefore accepted the evidence of the applicant and determined that there should be an order of eviction granted. The issue then became whether the order should be implemented immediately. The tribunal took the view that some period of time should be afforded to the respondents to allow for the obtaining of other accommodation. In order to do so the tribunal determined that there should be a period of three months allowed for the respondents to find that accommodation.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that an order of eviction be granted but that the eviction should not take place for a period of 3 months.

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: Mark Thorley

Date: 14 June 2022