



Decision 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/23/0488

Re: Property at 54 Auld Kirk Road, Tullibody, Alloa, FK10 2TG (“the Property”)

Parties:

Mr Abdul Ghafoor, 55 Marshall Way, Tullibody, Alloa, FK10 2GA (“the Applicant”)

Mr Asad Ali, Ms Adriana Karsova, 54 Auld Kirk Road, Tullibody, Alloa, FK10 2TG (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondents.

Introduction.

This Hearing concerned an Application under application for an Eviction order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 in respect to a Private Rented Tenancy. The hearing took place by teleconference.

1. Attendance and Representation.

Salma Hussain attended for the Applicant.

The Respondent Asad Ali attended personally.

2. Preliminary Matters.

There were no preliminary matters raised.

3. Case Management Discussion.

For the Applicant.

The Applicant's representative set out that the Applicant seeks to sell the property in order to obtain a house for her. The Applicant has had the house up for sale with the tenants for a number of months. No one has come to view the house as of yet. The Applicant is the Applicant's representative's father. In order that the Applicant can buy the house he needs to sell the property to get the funds for it. The property has been on the market since the end of February 2023. The Applicant hopes that the property is vacant it can be sold.

The Applicant's representative said the Applicant has no other rental property and the Applicant's representative does not have her own property and requires same for medical reasons. She is 35 years and has no dependents.

For the Respondent.

The Respondent said he did not oppose the Application. The property is too small for his family but he is not in a position to be able to afford a private let. He applied for council housing 2 years ago and has been on the waiting list since then. He cannot achieve priority without an order or Eviction he said. He resides in the property with his parent, wife and 2 children. The property has 2 double bedrooms and one small children's bedroom. The Respondent said his mum has health problems and his son needs more space due to autism. The Respondent was not opposed.

Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Hearing and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. Parties were fully in agreement to the Application and there were no issues in dispute.**
- 2. The Applicant sought an Order for Eviction on Ground 1, Schedule 3, that he wished to sell the let property, is entitled to sell same and he 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.**
- 3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.**
- 4. There was a PRT in place between parties.**
- 5. A Notice to Leave was sent to the Respondent on 18th November 2022 on the basis of Ground 1.**
- 6. The Tribunal was satisfied on balance that in terms of Schedule 3, Part 3 Ground 1 of the 2016 Act the Applicant sought to sell the property and to market same for sale. The Property is**

already on sale but the Applicant has been unable to sell same and seeks to do so without tenants.

7. The Tribunal found that the requirements of Ground 1 of Schedule 3 to the Act had been met.
8. The Tribunal was also satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.
9. The Tribunal noted the Local Authority under the 2016 had been notified.
10. On the evidence available to the Tribunal the Respondent did not oppose the Application and seeks alternative suitable accommodation for his family. The current property is not suitable and he cannot secure local authority housing without an Order being granted against him. The Applicant seeks to fund a property purchase for his daughter by selling the property. He was unable to do so with tenants and had attempted to do so. The Applicant's daughter has no accommodation of her own. The Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.
11. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.
12. The Tribunal noted the application was subject to the provisions of The Cost of Living (Tenant Protection) (Scotland) Act 2022.

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/Chair

Date: 26.05.2023

