



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/19/3403

Re: Property at 25 Thornyflat Place, Ayr, KA8 0NE (“the Property”)

Parties:

Mrs Eilidh Goodwin, 32 Marlepark, Ayr, KA7 4RN (“the Applicant”)

Mrs Stacie Barclay, 25 Thornyflat Place, Ayr, KA8 0NE (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This is an application for an eviction order dated 22nd October 2019 and brought in terms of Rule 109 (Application for an eviction order) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant seeks an eviction order in relation to the Property against the Respondent, and provided with her application copies of the private residential tenancy agreement, notice to leave, section 11 notice, relevant executions of service, and a letter from estate agents.

All of these documents and forms had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and the procedures set out in that Act appeared to have been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 27th November 2019, and the Tribunal was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held on 8th January 2020 at Russell House, King Street, Ayr. The Applicant did not appear, but was represented by Mr Fraser, solicitor. The Respondent did not appear, nor was she represented. The Respondent has not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was invited by Mr Fraser with reference to the application and papers to grant the order sought on ground 1 of Schedule 3 to the *Private Housing (Tenancies) (Scotland) Act 2016*.

The notice to leave dated 15th July 2019 relied on ground 1 of Schedule 3 to the *Private Housing (Tenancies) (Scotland) Act 2016*. It narrated that the Applicant intends to sell the Property and is currently marketing it with Corum Estate Agents, and a letter from Corum Estate Agents dated 15th July 2019 confirming that it had been instructed to market the Property for sale was attached.

Mr Fraser noted that the notice to leave was addressed to the Respondent using her maiden name as contained in the lease itself, but her surname had been wrongly spelt as "Lazenby" instead of the correct spelling of "Lazenbury".

Mr Fraser submitted, however, that the notice had been served by sheriff officers at the Property, and that the notice correctly identifies the tenancy of the property between the Respondent and the Applicant, and therefore that the designation of the Respondent was sufficient to properly and unambiguously identify her.

Statement of Reasons

In terms of Section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* ("the Act"), the Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

Para 1 of Schedule 3 to the Act provides that it is an eviction ground that the landlord intends to sell the let property. The Tribunal must find that this ground applies if the landlord (1) is entitled to sell the let property, and (2) 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. Evidence tending to show that intention includes a letter of engagement from an estate agent concerning the sale of the let property.

The Tribunal is satisfied that ground 1 has been established. The landlord is entitled to sell the Property, and intends to sell it as evidenced by Corum Estate Agents' letter of engagement.

The Tribunal accepted Mr Fraser's submission regarding the mis-spelling of the Respondent's surname in the notice to leave, and considered her designation sufficient to properly and unambiguously identify the Respondent, who could be in no doubt that it was her that the notice was addressed to.

Decision

In these circumstances, the Tribunal will make an order for possession of the house let on the tenancy as sought in this application.

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.

Neil Kinnear

Legal Member/Chair

08/01/20

Date