

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/19/1425

Re: Property at 1 East Glen Avenue, Livingston, EH54 8BP (“the Property”)

Parties:

Mr Robert Woolford, The Bellhouse, Avonbridge, Falkirk, FK1 2JY (“the Applicant”)

Mr Allan Walker, Ms Samantha Brentley, 1 East Glen Avenue, Livingston, EH54 8BP; 1 East Glen Avenue, Livingston, EH54 8BP (“the Respondents”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondents from the property.

1. By application dated 8 May 2019 the Applicant applied to the Tribunal for an order for the eviction of the Respondents from the property in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant provided the Tribunal with a copy of the Tenancy Agreement, Notice to Leave, Section 11 Notice, emails and Estate Agency agreement between the applicant and Your Move Estate Agents.
2. By Notice of Acceptance dated 20 May 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management discussion was assigned.
3. Intimation of the Case Management discussion was given to the Applicant’s representatives T C Young Solicitors Glasgow by post on 5 June 2019 and to the Respondents by Sheriff Officers on 7 June 2019.
4. No further written submissions were received from the Applicant’s representatives prior to the Case Management Discussion and no written submissions were received from the Respondents.

The Case Management Discussion

5. The Case Management Discussion was held at Riverside house Edinburgh on 11 July 2019. It was attended by Ms Nicola Caldwell of the Applicant's representatives on behalf of the Applicant. The Respondents did not attend nor were they represented. The tribunal was satisfied that proper intimation had been given to the Respondents and determined to proceed in their absence in accordance with Rule 29 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations").
6. Ms Caldwell referred the Tribunal to the documents provided with the application and submitted that the terms of Ground 1 of Schedule 3 of the 2016 Act had been met. It was the Applicant's intention to sell the property and that was a mandatory ground for granting the order sought. The Estate Agency agreement between the Applicant and Your Move was evidence of the Applicant's intention to sell the property once he had vacant possession.
7. Ms Caldwell was unable to say why the Applicant had decided to sell the property so soon after entering into a Private Residential Tenancy Agreement with the Respondents. She confirmed she had explained to her client that the property had to be put up for sale within three months of the Respondents ceasing to occupy it.
8. Ms Caldwell confirmed that the Respondents had not paid any rent since January 2015 but that at the time of serving the Notice to Leave that would not have been a mandatory ground for eviction.
9. Ms Caldwell asked the Tribunal to grant the order sought.

Findings in Fact

10. The parties entered into a Private Residential Tenancy Agreement that commenced on 4 December 2019.
11. The Respondents were served with a Notice to Leave on by email on 26 March 2019 on the ground that the Applicant intends to sell the property.
12. The Applicant entered into an Estate Agency agreement for the sale of the property with Your Move Estate Agents dated 3 May 2019.
13. The Applicant's representatives intimated a section 11 Notice to West Lothian Council by email on 8 May 2019.
14. The Respondents have not paid rent for the property since January 2019.

Reasons for Decision

15. Although the Tribunal would have preferred more information as to the Applicant's reasons for deciding to sell the property such a short time after entering into a tenancy agreement it was nonetheless satisfied that there was an agreement between the Applicant and Your Move to market the property for sale once the Respondents were no longer in occupation.
16. The Tribunal was satisfied that the Notice to Leave had been properly served on the Respondents and that the time periods within the Notice had been properly calculated.
17. The Tribunal was satisfied that proper intimation of the proceedings had been given to West Lothian Council.
18. The Tribunal was satisfied that the Respondents had been given an opportunity to oppose the application but had not done so. In all the circumstances the Tribunal was satisfied that the terms of Ground 1 of Schedule 3 of the 2016 Act together with Section 52 had been met and it being a mandatory ground for eviction the Tribunal must grant the order sought.

Decision

19. The Tribunal having carefully considered the submissions of the Applicant's representative together with the written representations and productions determined that the Applicant was entitled to an order for the eviction of the Respondents from the property in terms of Ground 1 of Schedule 3 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.

Graham Harding

Legal member/chair

11 July 2019

Date