



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/22/3086

Re: Property at 112 Barns Street, Clydebank, G81 1RB (“the Property”)

Parties:

Mr Francis Polding, 8C Windsor Crescent, Clydebank, G81 3AE (“the Applicant”)

Miss Ashleigh Mills and Mr David Allison, 112 Barns Street, Clydebank, G81 1RB (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondents)

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

Background

Prior to the Case Management Discussion (“CMD”) the Tribunal was made aware of another eviction application having been submitted relative to the Property in which an eviction order was granted by a differently constituted Tribunal on 12 May 2023. That application, bearing reference FTS/HPC/EV/22/4276, was submitted by Catherine Anne McDonald as Executor of James Joseph Polding against the Respondents and proceeded on the basis of Ground 1 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016, namely that the Applicant intended to sell the Property to allow Ms McDonald to ingather her late father’s estate and administer that estate in accordance with his Will.

The CMD on 26 June 2023

Mr Kris Brown of Source Property (Scotland) Limited represented the Applicant. The Respondents were neither present nor represented. The CMD took place by telephone conference.

At the outset of the CMD the Tribunal questioned the need for a further eviction order. Mr Brown explained that the previous application had been raised, he believed, by insurers on behalf of the landlord and proceeded on the basis of rent arrears accrued. He had not seen the papers and was not aware of the eviction order having been granted.

The Tribunal narrated that the previous application proceeded on the basis of Ground 1 of Schedule 3 of the 2016 Act - as does the present application. The basis for both applications is therefore identical.

Mr Brown accepted that, in these circumstances, no eviction order is required and the Tribunal, with his agreement, therefore refused the application.

Decision

The application is refused as being unnecessary.

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

26 June 2023
Date