



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/22/3882

Re: Property at A3/5 1 Blackfriars Road, Glasgow, G1 1PZ (“the Property”)

Parties:

Mr Morgan Ebert, 3 Westquay House, 20 West Street, Fareham, PO16 0LG (“the Applicant”)

Miss Viviana Francisco and Mr Mario Barradas, both A3/5 1 Blackfriars Road, Glasgow, G1 1PZ (“the Respondents”)

Tribunal Members:

George Clark (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondents.

Background

By application dated 20 October 2022, the Applicant sought an Eviction Order against the Respondents under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The Grounds relied on were Grounds 1, 11 and 12 of Schedule 3 to the Act, but the applications under Grounds 11 and 12 were subsequently withdrawn, so the case proceeded under Ground 1 alone, namely that the landlord intends to sell the Property.

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 11 March 2022 at a rent of £575 per month, and a Notice to Leave dated 31 August 2022, stating that Ground 1 was the reason for the Applicant seeking an Eviction Order and that an application to the Tribunal would not be made before 1 October 2022. As the Notice to Leave was served less than 6 months after the commencement of the tenancy, the relevant

period of notice was 28 days. The Applicant also provided a copy of an Estate Agency Agreement for the sale of the Property.

On 25 May 2023, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 5 June 2023. The Respondents did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the morning of 29 June 2023. The Applicant was not present or represented. The first-named Respondent, Miss Francisco, was present. The second-named Respondent was not present, being represented by Miss Francisco.

Miss Francisco told the Tribunal that the Respondents are finding the Property too small for them and that they have been unable to keep up with the rent and utilities bills. They were not opposing the application, and an Order would assist them in securing alternative accommodation.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.

Section 51 of the 2016 Act states that 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 to the 2016 Act applies. Ground 1 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the landlord intends to sell the let property and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell and 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, and the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts. Ground 1 goes on to state that evidence tending to show that the landlord has that intention includes (for example) a letter of engagement from a solicitor or estate agent concerning the sale, or a recently prepared Home Report.

The Tribunal was satisfied that the Applicant intends to sell the Property but noted that he had not provided any evidence as to why it would be reasonable to issue an Eviction Order. The Respondents, however, had stated that the Property is too small for them, that they have been unable to keep up with the rent and utilities bills on their current earnings and that an Order would assist them in their efforts to be rehoused. Accordingly, in the particular circumstances of the case, the Tribunal decided that it would be reasonable to issue an Eviction Order under Ground 1 of Schedule 3 to the Act.

The Cost of Living (Tenant Protection) (Scotland) Act 2022 does not apply to the Tribunal's Decision, as the Notice to Leave was served before 28 October 2022, the date on which that Act came into force.

The Tribunal's Decision was unanimous.

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.



George Clark

29 June 2023
Legal Member/Chair

Date 29th June 2023