



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/22/4211

Re: Property at 0/1 14 Brisbane Street, Glasgow, G42 9HX (“the Property”)

Parties:

Mrs Jennifer Lesley Cassidy, Flat 1/3, 30 Coulters Crescent, Carmunnock, Glasgow, G76 9AY (“the Applicant”)

Emma Campbell Hopkins, 0/1 14 Brisbane Street, Glasgow, G42 9HX (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in terms of Ground 4 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Applicant intends to occupy the let property as her only or principal home for a period of at least 3 months and it is reasonable on account of that fact to grant an order.

Background

1.This application for an eviction order in terms of Rule 109 of the Tribunal rules of procedure was first lodged with the Tribunal on 22nd November 2022 and accepted by the Tribunal on 20th January 2023.A case management discussion was fixed for 24th March 2023 at 2pm.

Case Management Discussion

2.The case management discussion was attended by Mr Gray of Gilson Gray solicitors on behalf of the Applicant who did not attend. The Respondent attended and represented herself.

3.The Tribunal had sight of the Application, a paper apart, a tenancy agreement, a Notice to Leave, an e mail intimating the Notice to Leave, a notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 and an email intimating that to the local authority, together with emails sent by the Applicant to property agents indicating that she required to move back into the let property.

4.Mr Gray for the Applicant advised the Tribunal that the Parties had entered into a private residential tenancy at the property with effect from 17th May 2019.The Applicant now required to move back into the property after the ending of her marriage. She had secured temporary accommodation but now required to move back into the property to live there. She had secured temporary accommodation after her divorce and the sale of what had been the former matrimonial home. She was intending to move back into the property herself and had no children.

5.A Notice to Leave had been served on the Respondent which Mr Gray indicated had given appropriate notice to the Respondent of the Applicant's intention to seek to end the tenancy and move back into the property. A Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 had been sent to the local authority.

6.Mr Gray accepted that the application was affected by the Cost of Living (Protection for Tenants) (Scotland) Act 2022 and that any order could not be enforced for a period of six months after the order was granted unless the provisions in the legislation are suspended before then, although these are currently in place until 30 September 2023.

7.The Respondent Ms Hopkins had not been aware that the legislation affected the application and enforcement of any order and indicated that Letting Agents had given her different information.

8.Ms Hopkins regarded the situation as an unfortunate set of circumstances and had taken steps to obtain another property. She intended to move with her adult son and had been offered a 2-bedroom new build property by a housing association. She had been told she could view this property in the next few weeks and that the build was on schedule. Ms Hopkins indicated that she had not been able to vacate the property earlier as she had certain physical difficulties and had required to find appropriate alternative housing. When asked she said that she was of the view that the property she was intending to move to met her needs. She said that it was a relief to know that she would be in the new property before an eviction could take place and indicated that the Applicant owner could be reassured that she hoped to vacate the let property within the next month or so.

9.Ms Hopkins indicated that she did not wish to oppose the granting of an order and said that she found the Applicant's request to be very reasonable in the circumstances.

10.The Tribunal was satisfied that it had sufficient information upon which to make a decision and that the proceedings had been fair.

Findings in Fact

11.The parties entered into a private residential tenancy at the property with effect from 17th May 2019.

12. The Applicant's marriage has ended in divorce, and she requires to move back into the let property which she owns in order to live there as her only or principal home for a period of at least 3 months.

13. The Applicant is currently living in temporary accommodation.

14. A Notice to Leave was served by e mail on the Respondent on 15th August 2022 giving her notice that the landlord was seeking to recover the let property as she intended to live in it and that an application to the Tribunal for an eviction order would not be made before 10th November 2022.

15. A notice in terms of Section 11 of the Homelessness etc (Scotland) 2003 was intimated to Glasgow City Council on 22nd November 2022.

16. The Respondent who has physical difficulties has secured a two-bedroom housing association property to move into with her adult son which is suitable for her needs.

Reasons for Decision

17. The tribunal was satisfied in this application that the eviction ground was made out and that a Notice to Leave in proper form had been served on the Respondent giving her the correct notice period regarding the intention to apply for an eviction order. A section 11 notice had been served on the local authority. The applicant requires to move back into the let property to live there as a result of the ending of her marriage. The tribunal considered the question of reasonableness. The Respondent has physical difficulties but has managed to secure a new build housing association property which is suitable for her needs and will allow her to live with her adult son as she currently does at the let property. In all of the circumstances the tribunal considered it was reasonable to grant the order and noted that the granting of the order was not opposed. This application is affected by the Cost of Living (Protection for Tenants) (Scotland) Act 2022 and the order granted cannot be executed the earlier of (a) the day following the end of a period of 6 months beginning with the day on which the order was granted as specified above, or (b) the expiry or suspension of Paragraph 1 of Schedule 2 of the Cost of Living (Tenant Protection) (Scotland) Act 2022.

Decision

The Tribunal determined that an eviction order be granted in terms of Ground 4 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Applicant intends to occupy the let property as her only or principal home for a period of at least 3 months and it is reasonable on account of that fact to grant an order.

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.

24.3.23

Legal Member/Chair

Date