



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/22/0024

Re: Property at 5D Friarscroft, Countess Road, Dunbar, EH42 1BP (“the Property”)

Parties:

Mrs Anne Gallagher, 2 Roxburghe Court, Edinburgh, EH42 1TN (“the Applicant”)

Ms Trudy-Anne Thompson, 5D Friarscroft, Countess Road, Dunbar, EH42 1BP (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 109 for an order to evict the Respondent from the property.
2. Case management discussions have taken place on 6 May, 20 June and 4 August 2022. Reference is made to the Notes and Notices of Direction issued following those case management discussions.
3. On 29 September 2022, the Tribunal received an email from the Applicant’s representative, enclosing a statement of the Applicant and a copy home report dated 28 September which the Applicant obtained in respect of the property.

The Hearing

4. The Applicant was represented by Mrs McQueen and the Respondent participated personally in the Hearing, which took place by conference call on 13 October 2022. The Applicant's representative explained that the Tribunal should take account of the statement of the Applicant and indicated that the Applicant was on standby if the Tribunal wished to hear from her. The Applicant joined the conference call and responded to questions from the Tribunal.
5. The Applicant explained that she has a mortgage over the property and also has a mortgage over the property in which she lives. She pays those mortgages from her pension income. She is 71 years of age and is retired. Notwithstanding what is said in the statement lodged on behalf of the Applicant, she has never had any intention of moving to Spain to live. She intends to sell the property and use the proceeds of sale to clear her indebtedness in respect of the two mortgage accounts. She owns another property although the occupants, who have lived there for approximately 20 years, do not pay any rent in respect of that property. She owns a property in Spain which she intends to transfer to her children. She has found it difficult to deal with all financial matters following the loss of her husband and she is worried about the prospect of increasing household bills. She is not in financial difficulty. She has instructed a firm of solicitors in relation to the proposed sale of the property and has obtained a home report. It was submitted that it was reasonable in the circumstances for an order for eviction to be granted.
6. The Respondent did not oppose the application and indicated that she did not want to cause a problem for the Applicant. The Respondent has already been in contact with a housing officer at the local authority. Although no alternative accommodation has been identified, the Respondent will keep in contact with the local authority.

Findings in Fact

7. The parties entered into a private residential tenancy which commenced 15 February 2018.
8. The Applicant's representative served Notice to Leave on the Respondent by email on 22 April 2021.
9. The Applicant intends to sell the let property for market value.

Reason for Decision

10. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the Hearing. The Respondent did not oppose the application. The Applicant produced a home report, evidencing her intention to

sell the property. The Tribunal was satisfied that ground 1 has been established and that it was reasonable to grant the order sought.

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.

Nicola Irvine

Legal Member/Chair

13 October 2022
Date