



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

Reference number: FTS/HPC/EV/22/2151

Order granted on 6 October 2022

Property: Woodside, Strathtay, Pitlochry, PH9 0PJ

Parties:

Martin Knight and Kay Anne Knight residing at Laireag House, Pitnacree, Ballinluig, Pitlochry, PH9 0LW (“the Applicants”)

Joanna Cockburn, residing at Woodside, Strathtay, Pitlochry, PH9 0PJ (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

David Fotheringham (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1 of part 1 of schedule 3 to the 2016 Act.

Background

The Applicants seek recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicants lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to Leave served on 6 April 2022, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicants are the heritable proprietors of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 10.00am on 6 October 2022. Mr E Robertson represented both applicants. The respondent was present but unrepresented.

Findings in Fact

The Tribunal made the following findings in fact:

1. On 10 March 2021 the applicants and respondent entered into a private residential tenancy agreement.
2. The rent in terms of the Tenancy Agreement was £715.00 per month.
3. On 6 April 2022 the applicants served a notice to leave on the respondent. The applicants are joint heritable proprietors of the property and want to sell the property.
4. On 20 June 2022 the applicants received an offer to purchase the property. They have accepted that offer. The date of entry still has to be agreed, but the applicants fear that a delay in the date of entry may prejudice the successful sale of the property. On 30 June 2022, the applicants submitted an application to the tribunal.
5. The Applicants seek recovery of possession of the Property in terms of Ground 1 of part 1 of schedule 3 to the 2016 Act. On the facts as we find them to be, the applicants
 - (a) are entitled to sell the let property,
 - (b) intend to sell the property for market value within 3 months of the tenant ceasing to occupy it, and
 - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.
6. The respondent has been trying to arrange alternative accommodation and does not want to stay in the property any longer than she has to. She wants to move but has not been able to find suitable alternative accommodation. She has applied to the local authority for housing. The applicant lives alone, with her pets. She relies on public transport. She is employed in Pitlochry.
7. The respondent does not offer opposition to the application. She simply needs more time to find alternative accommodation. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property, but to allow the applicant 2 months before an order for repossession can be enforced.

Reasons for the Decision

8. The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in Ground 1 of part 1 of schedule 3 to the 2016 Act is established. The respondent offers no defence to the application other than to ask for further time to find alternative accommodation. For these reasons, the Tribunal determined to grant an Order for possession but to delay execution of the order until 6 December 2022.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1 of part 1 of schedule 3 to 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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Paul Doyle

Legal Member

6 October 2022