



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/22/2747

Re: Property at 42E Clepington Road, Dundee, DD3 7NY (“the Property”)

Parties:

Mrs Eleanor Imlay, 53 Queen Street, Newport on Tay, Fife, DD6 8BD (“the Applicant”)

Ms Lisa MacDowall, 42E Clepington Road, Dundee, DD3 7NY (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted against the respondent

Introduction

This is an application under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The application seeks an eviction order.

Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the respondent by Sheriff Officers on 19 January 2023.

The CMD took place by teleconference on 2 March 2023 at 2pm. The applicant joined the hearing accompanied by her husband. The respondent failed to participate in the hearing.

Findings and Reasons

The property is 42E Clepington Road, Dundee DD3 7NY. The applicant is Mrs Eleanor Imlay. She owns the property jointly with her husband, Mr John Imlay, who consents to the bringing of this application. The respondent is Ms Lisa MacDowell who is the tenant.

The parties entered into a private residential tenancy in respect of the property which commenced on 27 January 2021. The rent was stipulated at £500 per month.

The applicant relies upon ground 1 contained within part 1, schedule 3 to the 2016 Act. This specifies that it is an eviction ground where the landlord intends to sell the let property. The relevant notice period under ground 1 was one of 84 days and at the time that the notice to leave was served.

The notice to leave relied upon in this case was dated 21 April 2022 and stipulates that the earliest an application be submitted to the tribunal would be 21 July 2022. There is evidence that the notice was delivered on 22 April 2022. More than the required period under Section 62 of the Act is evidenced. The notice to leave, served upon the respondent and relied upon in this application is therefore valid.

In support of the application for eviction the applicant produced a letter from Remax Estate Agents confirming the instructions received to sell the property. At the hearing Mr Imlay explained that both he and his wife, who is the applicant, are in their late 70's. They wish to exit the private rented sector and make longer term financial plans. They find the responsibility of acting as landlords onerous.

The tribunal was satisfied on the basis of the documentary evidence and the oral submissions provided at the hearing that there is a genuine intention to sell the let property. All of this evidence was found to be credible and reliable. Ground 1 is therefore established.

Ground 1 was originally drafted as a mandatory ground for eviction. All eviction grounds are discretionary. The tribunal proceeded to consider the issue of reasonableness of making of an eviction order. The tribunal weighed up the respective circumstances and needs of the parties.

The respondent is known to be employed on a full time basis. She has a teenage daughter. Neither are known to have any disability or other vulnerabilities.

A relevant Section 11 notice has been issued to the relevant local authority. There is an obligation upon them to provide the respondent with alternate accommodation in the event of an eviction order being made.

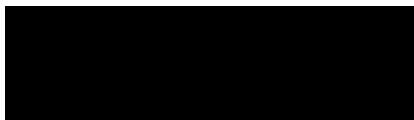
The respondent is in rent arrears. She has not paid rent for around 4 months. It is unreasonable to expect the property to be maintained for the respondent in the absence of rent being paid.

The applicants are entitled to recover possession of their property. The respondent has not opposed the application.

Weighing up all circumstances the tribunal concluded that it was reasonable to grant the eviction 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.



2 March 2023

Legal Member/Chair

Date