



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/20/0560

Re: Property at 5 Salton Crescent, Dundee, DD4 0HY (“the Property”)

Parties:

Mrs Evelyn Josephine Gdula, 7 Old Mill Lane, Uddingston, G71 7DP (“the Applicant”)

Ms Jeanne Rooney, 5 Salton Crescent, Dundee, DD4 0HY (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber on dated 7th February 2020. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 1 of the Private Housing (Tenancies) Act 2016.

The Case Management Discussion

2. A Case Management Discussion (“CMD”) was held on 17th July 2020 at 2pm by teleconference due to Covid 19 restrictions. The case had originally been set to be heard on 7th April 2020 but postponed due to Covid 19 restrictions. The Applicant not present but was represented by Mr Billy Smith, solicitor, Complete Clarity Solicitors & Simplicity Legal. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The

Respondent emailed the Housing and Property Chamber late on 16th July 2020 to state that she did not object to the Order being granted. Mr Smith told the Tribunal that the Respondent had also informed the Applicant that it was her intention not to oppose the granting of the Order.

3. Mr Smith confirmed that the Applicant's position remained the same as it was in her signed affidavit on 20th November 2019 in that she still intends to sell the Property. He noted that she has taken no further action to sell the Property. This is due to the Applicant needing to undertake refurbishments to the Property which she intends to do once the Respondent has vacated the Property. Although the tenancy agreement is dated 1st September 2019 the Respondent has been residing the Property for some time prior to that without a lease which is why the refurbishments need done. Mr Smith informed that Tribunal that the Applicant still intends to put the Property on the market within 3 months. The Applicant has contacted Thorntons WS regarding the estate agency aspect of selling the house but has not instructed them further. Once the refurbishments are done then it is her intention to instruct them to undertake the estate agency duties.

Findings and reason for decision

4. A Private Rented Tenancy Agreement commenced 1st September 2019. The Parties entered into a Private Residential Tenancy agreement.
5. The Applicant seeks to sell the Property. She has taken steps to do this, namely she has contacted an estate agent but not instructed them. She also signed an affidavit detailing her reasons that she still stands by. Once she has carried out the necessary refurbishments the Applicant will market the Property within 3 months.

Decision

6. The Tribunal found that ground 1 has been established and the Tribunal granted an order in favour of the Applicant.

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.

Gabrielle Miller

Legal Member/Chair

17th July 2020

Date