



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/20/0970

Re: Property at 30 St Edmund Place, Dundee, DD3 9NW (“the Property”)

Parties:

Ms Stephanie Beattie, c/o Your Move, 31a North Bridge Street, Bathgate (“the Applicant”)

Miss Chelsea Hill, 30 St Edmund Place, Dundee, DD3 9NW (“the Respondent”)

Tribunal Members:

Richard Mill (Legal 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.

Service of the application and intimation of the Case Management Discussion (CMD) was effected upon the respondent by Sheriff Officer delivery on 7 October 2020. No written submissions or response has been received by or on behalf of the respondent.

The CMD took place at 2.00 pm on 5 November 2020.

The applicant was represented by Mr Jay Lawson of MML Legal. The respondent failed to participate in the teleconference hearing. There was no barrier to her doing so.

Findings and Reasons

The property is 30 St Edmund Place, Dundee DD3 9NW. The applicant is Stephanie Beattie. The respondent is Chelsea Hill.

Following it being identified that the identity of the heritable proprietor is Stephanie Ross and not Stephanie Beattie, who is named as the applicant, further clarification was sought in respect of her authority. A copy of her Marriage Certificate disclosing that she married Scott Ross on 28 October 2006 and also an Extract Decree of Divorce dissolving the marriage by way of Decree on 2 November 2016 was then produced. The applicant is the heritable proprietor.

The parties entered into a private residential tenancy in respect of the property which commenced on 8 December 2017. The rent was stipulated at the rate of £550 per month.

Notice to Leave was served upon the respondent. The eviction ground relied upon was solely ground 1 which is contained within Part 1, Schedule 3 to the 2016 Act. This eviction ground is that the landlord intends to sell the let property. Subsection (3) of the ground sets out the type of evidence which may tend to show that the landlord has an intention to sell the property. This would include for example, a letter of engagement from a solicitor or estate agent concerning the sale of the let property

The relevant notice period under the 2016 Act which applied at the time that the Notice was served was a period of 84 days. The Notice was served before the coming into force of the Coronavirus (Scotland) Act 2020. The 84 day notice period is not extended.

Additionally the ground relied upon remains a mandatory one, again as the Notice was served before the coming into force of the Coronavirus (Scotland) Act 2020. Subsection (2) of ground 1 states that the First-tier Tribunal must find that the ground applies if the landlord is entitled to sell the property and intends to sell it for market value or, at least, put it up for sale, within 3 months of the tenant ceasing to occupy it.

The Notice to Leave is dated 16 October 2019. For the purposes of Section 62(5) of the Act, it is assumed that the respondent received the Notice 48 hours after it was sent, which would be on 18 October 2018. The 84 day period runs from that date. For the purposes of Section 62(4) of the Act, the day on which the landlord under the tenancy in question could have expected to become entitled to make an application for an eviction to the First-tier Tribunal is the day which follows the expiry of the period of notice.

The date specified in the Notice to Leave anticipated that the applicant could submit an application for eviction to the Tribunal no earlier than 11 January 2020. The date specified is properly calculated with reference to Section 62 of the Act. The Notice to Leave is valid.

During the duration of the application process the applicant provided evidence regarding the applicant's intention to sell the let property. Documents from Messrs Gilson Gray confirmed that a portfolio of 121 properties owned by Carling Property Group was for sale. Further clarification was sought in respect of the applicant landlord's interest in such matters and clarification that the portfolio specifically included the property which is the subject of this application.

Thereafter an estate agency contract issued by the Property Boom Limited was produced. This was a terms and conditions of business agreement which discloses the applicant's name and the address of the property. This is dated 14 October 2020. A contract has been entered into to sell the property.

The Tribunal finds the documentary evidence produced to both support the applicant's title to sell the property and her intention to sell it credible and reliable. The Tribunal attaches weight to the entirety of this evidence. Ground 1 is established and the Tribunal grants an eviction order under s 51 of the 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.

Richard Mill

5 November 2020

Legal Member/Chair

Date