



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 (Act)

Chamber Ref: FTS/HPC/EV/20/1027

Re: Property at 108/9 Atholl View, Prestonpans, East Lothian, EH32 9FL (“the Property”)

Parties:

Mr David Mein, 15 Struan Wynd, Prestonpans, East Lothian, EH32 9FR (“the Applicant”)

Ms Keryn Dudgeon, 108/9 Atholl View, Prestonpans, East Lothian, EH32 9FL (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.

Background

This is an application under Rule 109 and section 51(1) of the Act in respect of the Applicant’s intention to sell the Property and for eviction and recovery of possession on Ground 1 of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application received 6 April 2020;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 1 August 2019;
3. Notice to Leave dated and served 23 January 2020;
4. Section 11 Notice to Local Authority;
5. Email to Local Authority enclosing Section 11 Notice dated 6 April 2020;

6. Letter of 5 June 2020 from Selling Agents enclosing offer for Property;
7. Sheriff Officer Certificate of Service of Tribunal CMD Notification on Respondent dated 6 August 2020.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 28 August 2020. The Applicant participated and was represented by his letting agent. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate. The Respondent did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that she should attend and the Tribunal could determine the matter in absence if she did not.

The Tribunal had regard to Ground 1 of Schedule 3 to the Act which provides:

Landlord intends to sell

1(1) It is an eviction ground that the landlord intends to sell the let property.

(2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if the landlord—

(a) is entitled to sell the let property, and

(b) 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.

(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

The Tribunal then considered the documentary evidence it had received from the Applicant and in so far as material made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 1 August 2019;
2. The Applicant is the owner of the Property and entitled to sell it;
3. Notice to Leave had been served on the Respondent on 23 January 2020;
4. The Applicant has engaged agents to sell the Property and received an offer which has been accepted;
5. The Applicant intends to sell the Property within 3 months of the Respondent ceasing to occupy it;
6. Section 11 notification had been served on the local authority on 6 April 2020.

The Tribunal was satisfied that Ground 1 had been established and accordingly granted the application for eviction and recovery of possession.

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.

A Strain

28 August 2020

Legal Member/Chair

Date