



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/20/1129

Re: Property at 4/1 12 Park Quadrant Park, Glasgow, G3 6BD (“the Property”)

Parties:

Thomas W Dalgleish & Son, c/o Rettie and Co, 147 Bath Street, Glasgow, G2 4SQ (“the Applicant”)

Mr Anthony Goodings, 4/1 12 Park Quadrant Park, Glasgow, G3 6BD (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. An application had been received under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession under a private residential tenancy by the Applicant against the Respondent for the Property.
2. The application contained:
 - a copy of the tenancy agreement,
 - a copy of the notice to leave with evidence of service
 - a copy section 11 Notice with evidence of service
 - a copy of the Terms of Business Property Sales document

3. Ms Matheson, from Bannatyne Kirkwood France & Co appeared on behalf of the Applicant. The Respondent also attended. Ann Hall attended as a supporter for the Respondent.

Hearing

4. The Applicant's agent advised that she was seeking an order for recovery of the possession of the property under ground 1 that the landlord intends to sell. She advised that the landlord had served a notice to leave on the Respondent, and there had been service of the notice to leave by email, which was allowed in terms of the tenancy agreement. She advised that there was also a terms of business – property sales document entered into between the Applicant and that their estate agents in relation to the sale of the property. The title deeds showed that that the landlord was the heritable proprietor of the property. She submitted that this was a mandatory ground and if I found that the landlord was entitled to sell it; and had the intention to do so, then I had to grant the order for eviction.
5. The Respondent advised that he was not opposing the Applicant's application for eviction.

Findings in Fact

6. The Tribunal found the following facts established: -
7. There existed a private residential tenancy between the Applicant and the Respondent. It had commenced on 25 October 2019.
8. There was a notice to leave addressed to the Respondent. It contained information for the Respondent as to why an eviction order was sought. It was dated 10 February 2020. It confirmed that proceedings would not be brought until 12 March 2020. It had been emailed to the Respondent on 10 February 2020. The ground in the notice to leave was ground 1 "your landlord intends to sell the let property".
9. There was a signed terms of business letter between the Applicant and a firm of estate agents in relation to the sale of the property, dated 17 March 2020.
10. The section 11 notice had been sent to the local authority providing them with notice of the intention to raise recovery proceedings.

Reasons for Decision

11. Section 51 of the 2016 Act provides the Tribunal with a power to grant an order for eviction for a private residential tenancy, if it found that one of the grounds in schedule 3 of the Act applies.

12. The ground which the Applicant seeks eviction under is ground 1 the landlord intends to sell. The Ground provides that: -

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.

13. The Respondent did not oppose the application.

14. I had sight of title deeds showing that the Applicant was the heritable proprietor for the property. I saw evidence of a terms of business letter between the Applicant and a firm of estate agents. It appears to me that the terms of Ground 1 have been met. I therefore grant an eviction order in terms of ground 1.

Decision

15. The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

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.

Melanie Barbour

Legal Member/Chair

14 August 2020

Date

