



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/20/1912

Re: Property at 7D Turriff Place, Dundee, DD3 8RQ (“the Property”)

Parties:

Mrs Mandy Nicolson, 15 Oakfield Court, Kelty, KY4 0EY (“the Applicant”)

Mr George Contreras, 59 Lauderdale Avenue, Dundee DD3 9AS and M/s Nicola Loftus, 7D Turriff Place, Dundee, DD3 8RQ (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent, Ms Loftus)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.

Background

By application, received by the Tribunal on 10 September 2020, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Eviction Ground relied on was Ground 1 of Part 1 of Schedule 3 to the 2016 Act, namely that the Applicant intends to sell the Property.

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 25 October 2019, at a rent of £610 per month, with a deposit of £710, a Notice to Leave issued by Countrywide Residential Letting, dated 29 January 2020, advising the Respondent that the Eviction Ground was Ground 1 of Part 1 of Schedule 3 to the Act and that an application for an Eviction Order would not be made before 25 April 2020, and evidence of service of the Notice to Leave by recorded delivery. The Applicant also provided a copy of a signed

Letter of Engagement and Terms of Business letter dated 29 October 2020, instructing Slater Hogg and Howison to act in the sale of the Property. The Tribunal saw evidence from the Land Register of Scotland that, as at 11 November 2020, the Applicant was registered as the Proprietor of the Property.

On 20 November 2020, the Tribunal advised the Parties of the date and time of a Case Management Discussion and the Respondent was invited to make written representations by 11 December 2020. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the morning of 7 January 2021. The Applicant participated and was supported by Mr Scott Johnston of Countrywide Lettings. The Respondent, Mr Contreras, also participated but the Respondent, Ms Loftus, was not present or represented. Mr Contreras confirmed that he was not representing Ms Loftus and that he had left the Property on 28 April 2020. The Applicant confirmed that it was her firm intention to sell the Property as soon as she was able to do so after she obtained vacant possession.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 applies. Ground 1 of Part 1 of Schedule 3 provides that it is an Eviction Ground that the landlord intends to sell the property, that the Tribunal must find that Ground 1 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 and that evidence tending to show that the landlord has that intention includes (for example) a letter of engagement from a solicitor or estate agent concerning the sale of the let property.

The Tribunal was satisfied that the requisite period of notice, set out in Section 54 of the 2016 Act, namely 84 days, had been given in the Notice to Leave. The Tribunal was also satisfied from the evidence before it, namely the signed letter of engagement from an estate agent and the Applicant's oral evidence, that the Applicant intends to sell the Property for market value or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it and that, as the registered Proprietor, the Applicant is entitled to sell the Property. Accordingly, the requirements of Ground 1 of Part 1 of

Schedule 3 to the 2016 Act had been met and the Tribunal was bound to issue an Eviction Order.

The application was based on a Notice to Leave dated 29 January 2020, so the Tribunal's Decision was not affected by the provisions of the Coronavirus (Scotland) Act 2020.

Decision

The Tribunal determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.

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.


Legal Member

7 January 2021
Date