



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/20/2027

Re: Property at 47/4 Erskine Street, Dundee, DD4 6RN (“the Property”)

Parties:

Mr Mustapha Auobala, 169 Albert Street, Dundee (“the Applicant”)

Mr Ahmed Alzif, 47/4 Erskine Street, Dundee, DD4 6RN (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

- 1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the eviction of the respondent from the applicant’s property at 47/4 Erskine Street Dundee DD4 6RN be made in terms of ground 1 of schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 on the basis that the applicant wishes to sell the property.**
- 2. This was a case management discussion ‘CMD’ in connection with an application for eviction in terms of s52 of the Private Housing (Tenancies)(Scotland) Act 2016, ‘the Act’, and Rule 109 of the First-tier Tribunal for Scotland (Procedure) Regulations 2017 ‘the rules’.**
- 3. The tribunal had before it the following copy documents: -**

(1) Application dated 23 September 2020.

- (2) Private Residential Tenancy Agreement 'PRT' between the parties dated 1 July 2018.
- (3) Notice to leave dated 6 March 2020.
- (4) Proof of service of notice to leave dated 7 March 2020.
- (5) S11 notice.
- (6) Single survey of the property by DM Hall dated 15 September 2020.
- (7) Execution of service of the application by sheriff officer (on 27 October 2020), dated 28 October 2020.
- (8) Land certificate.

4. The CMD which proceeded by conference call due to the Covid-19 pandemic. The applicant was represented at the CMD by Ms Tanya Royle solicitor. Attended. The tribunal had sight of item 7 above and was satisfied that the respondents had received appropriate notice of CMD in terms of rule 24. The tribunal proceeded in the absence of the respondent in terms of rule 29.

Discussion

5. Ms Royle explained that the notice to leave predates the Covid-19 pandemic. She stated that her client wishes to sell the property and he may decide to instruct her firm to deal with the estate agency. She also stated the parties are friends but there has been no recent contact that she is aware of. Ms Royle made the point that the sheriff officers would not carry out the eviction whilst Dundee in tier 3 of the covid restrictions. Ms Royle was seeking an eviction on the basis that the mandatory ground was met.

6. Findings in fact

- (1) The applicant is the owner of the property.
- (2) The parties entered into a PRT for let of the property on 1 July 2018 with an agreed monthly rent of £400 per month.
- (3) A valid notice to leave dated 6 March 2020 was served on 7 March 2020.
- (4) The notice period was 84 days.
- (5) The applicant is entitled to sell the property.
- (6) The applicant intends to put it up for sale within 3 months of the respondent ceasing to occupy it.

Reasons

7. This was an undefended application for eviction in connection with a PRT. The application predates the changes made to the Act by the Coronavirus (Scotland) Act 2020. The tribunal was satisfied that it had sufficient information before it to make a decision and the procedure had been fair. The

tribunal was satisfied that the appropriate notice had been given in the notice to leave (84 days) as the respondent has resided in the property for more than 6 months. The tribunal was satisfied that the appropriate notice had been given to the local authority in advance of the application being made. The tribunal had sight of a survey report from DM Hall which the applicant had instructed with a view to the property being put in the market for sale. The tribunal was satisfied that the eviction ground 1 was met. The tribunal accordingly granted the order for eviction.

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.

Lesley Ward

1 December 2020

Legal Member: Lesley A Ward

Date