



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/20/2580

Re: Property at 155 Glasgow Road, Stirling, FK7 0LH (“the Property”)

Parties:

Mr Ralph Gow, 20 Dunavon Gardens, Dunipace, Denny, FK6 6DQ (“the Applicant”)

Miss Neomi O'Neill, Mr Andrew Coalter, 155 Glasgow Road, Stirling, FK7 0LH; 155 Glasgow Road, Stirling, FK7 0LH (“the Respondents”)

Tribunal Members:

Andrew Upton (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondents

STATEMENT OF REASONS

1. This Application called for its Case Management Discussion by teleconference on 4 March 2021. The Applicant was represented by Miss Cave of Bastion Property Management Ltd. One of the Respondents, Miss O'Neill, participated in the CMD and represented both Respondents.
2. In this Application, the Applicant seeks an eviction order against the Respondents. His position is that the Property was let to the Respondents under and in terms of a Private Residential Tenancy agreement which commenced on 15 October 2018 (“the PRT”). His personal circumstances have changed in that he has separated from his wife and requires to live in the Property. He gave Notice to Leave to the Respondents dated 25 August 2020 specifying that the Respondents required to leave the property by 28

November 2020. That provided the necessary 3 months' notice. He produced an affidavit confirming his intention to reside in the Property after it is recovered, and that he is currently residing with his mother. In all of the circumstances, Miss Cave invited the Tribunal to find that it was reasonable to grant the eviction order and to do so.

3. Miss O'Neill confirmed at an early stage that she accepted that it was reasonable to grant the eviction order. The Respondents did not dispute any of the Applicant's assertions in the Application. Miss O'Neill spoke to having approached the local authority to be placed on the housing list, and having been told that she would not need to leave the Property unless and until the Tribunal had granted an eviction order, and so she was waiting on that happening to increase her priority for re-housing. She confirmed that the Respondents had been offered temporary accommodation in December 2020, but that this had been refused as unsuitable. The Respondents have four children, and she had safety concerns related to the property offered.
4. In terms of the Private Housing (Tenancies) (Scotland) Act 2016 (as amended by the Coronavirus (Scotland) Act 2020:-

"51 First-tier Tribunal's power to issue an eviction order

- (1) The First-tier 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.
- (2) The provisions of schedule 3 stating the circumstances in which the Tribunal may find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.
- (3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.
- (4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

Schedule 3, Paragraph 4 Landlord intends to live in property

- (1) It is an eviction ground that the landlord intends to live in the let property.
- (2) The First-tier Tribunal may find that the ground named by subparagraph (1) applies if—
 - (a) the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months, and
 - (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
- (3) References to the landlord in this paragraph—
 - (a) in a case where two or more persons jointly are the landlord under a tenancy, are to be read as referring to any one of them,

- (b) in a case where the landlord holds the landlord's interest as a trustee under a trust, are to be read as referring to a person who is a beneficiary under the trust.
 - (4) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the landlord has that intention.”
5. In all of the circumstances set out in the Application and spoken to at the Hearing as set out above, the Tribunal unanimously determined that the Applicant intends to live in the Property as his only or principal home for at least 3 months, and that it is reasonable to grant the eviction order. Notice to Leave was validly given to the Respondents by the Applicant. Accordingly, the Tribunal granted the eviction order.

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: Andrew Upton

Date: 4th March 2021