



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 19 Housing (Scotland) Act
1988**

Chamber Ref: FTS/HPC/EV/21/0509

Re: Property at 1 Hope Cottage, Fraser Street, Beauly, IV4 7DW (“the Property”)

Parties:

Mr Adam Todd, 44 Orchard Park Beauly, Inverness, IV4 7DX (“the Applicant”)

Mrs Andrea McEntee, 1 Hope Cottage, Fraser Street, Beauly, IV4 7DW (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Eileen Shand (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that no order was necessary after consideration and the Application is refused.

Background

This Application proceeded by way of Rule 65 of the Procedure Rules and concerned an Application for possession of an assured tenancy under the 1988 Act on the grounds that the Applicant sought recovery to under Ground 1, Schedule 5 of the said Act as he required same as his principal Home. The Hearing took place by teleconference due to the Covid pandemic.

Attendance

Sarah Cooper, solicitor, Thorntons LLP, 33 Yeaman Shore, Dundee attended for the Applicant.

The Respondent attended personally.

The Hearing

The Applicant's solicitor set out that recovery of possession was sought in terms of Ground 1 Schedule 5 of the 1988 Act to allow the landlord to occupy the property as his sole or principal home. She explained the Applicant is currently in rented accommodation at present and wishes to move into the property. She submitted further in the circumstances it was reasonable for the order to be granted and that the Applicant wishes to enhance the property and update it whilst residing in it.

The Respondent set out that the property has been her home for 9 years and that she had been unable to get alternative accommodation for her family, which includes 6 children. However she confirmed that in the last few days the family have been offered a property from a housing association and will get the keys tomorrow. She explained this was a new build property in the same areas and she had received a formal offer.

The Tribunal noted that the Applicant's solicitors were insisting on an Order for repossession despite the updated circumstances of the Respondent.

Tribunal Decision - Reasons

The Tribunal determined that it was in the interests of all parties that this Application be continued to chambers and for parties to update on the position after the Respondent had viewed the Property. The Respondent confirmed the new tenancy had been accepted and the Applicant's solicitor informed the Tribunal that the Applicant was no longer insisting on an order as the Respondent had terminated the tenancy and accepted the new tenancy. Accordingly the Order and application after a few days was no longer necessary. The Tribunal on receipt of the further information refused the Application as same was no longer necessary and this was agreed by all parties.

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.

Karen Kirk

12 July 2021

Legal Member/Chair

Date