



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/21/1032

Re: Property at 1/1 River Court, 207 Busby Road, Clarkston, Glasgow, G76 8DR (“the Property”)

Parties:

Mr Andrew Boyd, 18 Benview Road, Clarkston, Glasgow, G76 7PS (“the Applicant”)

Ms Lauren Whitelaw, 1/1 River Court, 207 Busby Road, Clarkston, Glasgow, G76 8DR (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Mike Scott (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent.

Present

The Applicant, Mr Andrew Boyd was present.

The Respondent, Ms Lauren Whitelaw was present.

Background

This Case Management Discussion was fixed in terms of Rule 77 of the Procedure Rules and concerned an Application under Rule 109 of the Procedure Rules for an Eviction Order in relation to a Private Residential Tenancy in terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Hearing took place by teleconference due to the covid-19 pandemic.

Preliminary Matters

There were no preliminary matters raised at the Hearing. The Tribunal noted that there has been a number of issues raised by the Tribunal Administration at the sifting stage before the Hearing. These had been resolved to the Tribunal's satisfaction. The Tribunal checked that this was also true of the Respondent. She said she was satisfied with all matters to proceed.

The Hearing

For the Applicant

The Applicant set out that the property concerned is owned jointly with himself and his sister. He said further that there has been a dispute with his sister over her non-payment of the property's shared costs and this has been long running. He said 3 years ago his sister raised an action to sell the property. He referred to Sheriff Court papers lodged with his Application. The Applicant said the Court Action raise against him he was in dispute with as his sister for a long time had made no contribution to joint costs. He said she us now forcing a sale. The Applicant said he has been trying to stall his sister as he has no difficulties with the Respondent as a tenant and did not wish to make her leave. The Applicant said he has been advised the only option is to sell the flat and the Sheriff Court Action could be put on hold (sisted) to allow for that. The Applicant said he had explored all options. he cannot afford to buy his sister out and his brother offered to buy the property and keep the Respondent as tenant but his sister refused. He said he then informed the Respondent that she would need to leave as he had no option. The Applicant said his wife had been dealing with the tenancy and he had issued another tenancy agreement under advice. He said through error the wrong copy of the tenancy was lodged with the Application but this had since been rectified.

For the Respondent

The Respondent said she had received the Notice to Leave and had went to her local housing office to secure accommodation as she could not afford a private let. She said they told her that she had to get a date to leave before they could offer her anything. The Respondent said she was not in a dispute with the Applicant and understood the property required to be sold. She was not opposed to grant of an Order. She said she lives at the property with her 16 year old daughter who is at school in the local catchment area. She said the practice has been that she had signed a new tenancy agreement every year and she was ok with everything.

Findings in Fact

1. The Tribunal considered it had all necessary information and evidence before to proceed to make a decision having regard to the Overriding objective of the Tribunal.

2. The Applicant sought an Eviction Order under Section 51 of the Act under Schedule 3, Part 1 that he intended to sell the property.
3. The Applicant intends to sell the property forthwith.
4. The Applicant is the Defender in a Sheriff Court Action against him by the joint owner of the Property who wishes it to be sold.
5. The Applicant has instructed representation in that Action and has sought to explore all options to retain the property and the Respondent as tenant without success.
6. The Respondent entered into a Private Residential Tenancy for the property on 1st September 2019 but has been residing there for a number of years.
7. The Applicant served a Notice to Leave in terms of the Act on the Respondent on 30th September 2020.
8. The Applicant served a Section 11 Notice on the Local Authority.
9. The Applicant raised proceedings for an Eviction Order on 30th April 2021.
10. The Respondent does not defend the Action.

Reasons for the Decision

The Tribunal heard evidence from the Applicant and the Respondent and thereafter considered that it was reasonable and appropriate to grant an Eviction Order. The Tribunal in exercising its discretion fairly and reasonably had regard to the overriding objective of the Tribunal and the fact the Applicant gave credible evidence supported by written evidence that he sought to sell the property, he was so entitled to and he sought to do so forthwith. The Tribunal considered both parties were credible and reasonable in their evidence.

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

9th August 2021

Legal Member/Chair

Date