



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/21/1674

Re: Property at 27 Lomond Crescent, Whitburn, Bathgate, EH47 0EG (“the Property”)

Parties:

Mr David Waterson, Mrs Susan Waterson, 28 Glenmore, Whitburn, Bathgate, EH47 8NR; 28 Glenmore, Bathgate, Whitburn, EH47 8NR (“the Applicant”)

Mr Lee Wood, Ms Rachael Black, 27 Lomond Crescent, Whitburn, Bathgate, EH47 0EG (“the Respondents”)

Tribunal Members:

Karen Kirk (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondents. The Tribunal superseded extract for a period of 6 weeks.

Present

The Applicants were in attendance.

The Respondents were in attendance.

Background

This Case Management Discussion was fixed in terms of Rule 17 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(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The Case Management Discussion took place by teleconference due to the covid-19 pandemic. The purpose

of the Case Management was discussed with parties who were aware a final decision on matters could be made.

Preliminary Matters

The Tribunal raised with the Applicants why the Notice to Leave was dated 1st April 2021 and the proof of postage was dated 31st March 2021. They advised that this was to ensure the Respondents had as much notice as possible. The Respondents confirmed they had been told that they would receive a Notice to leave and had no preliminary issues to raise.

The Case Management Discussion

The Applicant's set out that they sought an order for Eviction in order that their son, Scott Waterson currently residing with them could move into the property. The Applicants told the Tribunal their son was in full time employment, was aged 32 years and had been living with them for 2 years. They explained he had been working abroad before that and was in a relationship with no children. He said his son would reside in the property as his home and undertake to pay the mortgage and bills. The Applicant's stated they found the Respondents to be excellent tenants.

The Respondents set out that that they had considered the PRT tenancy would be long term on commencement in August 2020 so they felt let down when they first were told the Applicant's son was to move in. However the Respondents confirmed that Ms Black has now a diagnosis of multiple sclerosis and the property is now longer suitable for her. She told the Tribunal the stairs and bathroom are not suitable. The Respondent's explained they have sought housing from the Local Authority and they have secured medical points. They told the Tribunal that they had a 14 year old daughter and that they wanted to seek the Order also to ensure they achieved alternative housing in the Livingston area. This was because they had been told the Local Authority would not take steps to find alternative temporary accommodation until an order was granted. The Respondents were not opposed to the Order sought.

Findings in Fact

1. The Applicants sought an Eviction Order in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016.
2. The Applicants served a Notice to leave on the Respondents dated 1st April 2021 and the Respondents confirmed they had received same.
3. The parties entered into a Private Residential Tenancy for the property on 1st August 2020.

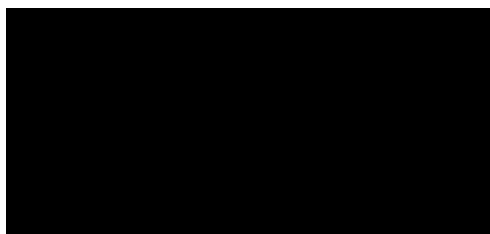
4. The Applicants sought an Order on the basis that their son, Scott Waterson is to move into the property to reside in same as his principal home in terms of Schedule 3, Part 1 of the Act.
5. The Respondents require alternative suitable accommodation as the property is no longer suitable for them. They did not oppose the Application.
6. The Tribunal was satisfied that the said grounds for eviction was met and that the Applicant's son intended to reside in the property as his principal home.
7. In all the circumstances it was reasonable to grant an order in the Tribunal's discretion.
8. In balancing the interests of both parties the Tribunal determined that it was appropriate to supersede extract for a short period.

Reasons for the Decision

The Tribunal heard evidence from both parties who were credible and reliable and had a good relationship with each other. The Tribunal considered that it was reasonable and appropriate to grant an Eviction Order at the Case Management Discussion and this was not opposed. The Tribunal was able to exercise its discretion fairly and reasonably on the evidence it had and by having regard to the overriding objective of the Tribunal to supersede extract for a short period.

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/Chair

16th October 2021

Date

