



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/21/1951

Re: Property at 25 Merrick Drive, Stonehouse, ML9 3JY (“the Property”)

Parties:

Mr David Gemmell, Ardlamont, Manse Road, Stonehouse, ML9 3NX (“the Applicant”)

Anthony Lowell, Mrs Agnes Lowell, 25 Merrick Drive, Stonehouse, ML9 3JY (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

On 13th August 2021 the Applicant lodged an application under Rule 109 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”), seeking eviction of the Respondent.

Lodged with the application were:-

1. The Tenancy Agreement showing a start date of 26th February 2018 and rent due of £550 per month;
2. Notice to Leave dated 7th January 2021 with a leave date of 9th July 2021;
3. Proof of Service of the Notice to Leave;
4. Section 11 Notice;

5. Undated letter from Gebbie & Wilson, Solicitors and Estate Agents.

The papers were served on the Respondents by Sheriff Officer on 22nd September 2021.

Case Management Discussion

The Case Management Discussion (“CMD”) took place by teleconference. The Applicant represented himself. There was no attendance by the Respondents or any representative on their behalf.

The Tribunal explained the purposes of a CMD in terms of Rule 17 of the Rules.

The Tribunal went through the terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 with the Applicant. The Applicant said that it was his intention to sell the property. He has several rental properties but has always rented them out to friend and family in the past. This is the first time he has rented a property to non-family members. The Applicant said that it had been a very stressful experience. Neighbours knew that he was the landlord and he had received a lot of phone calls complaining about the Respondents.

The Tribunal asked if he knew who lived in the house. He said that he thought only the Second Respondent lived there and he was not sure if she had any children living with her. The Tribunal asked if the rent was up to date. The Applicant said it was about 2.5 months behind. At the time of serving the Notice to Leave the Respondents were a couple of weeks behind but had caught up the payment.

The Applicant said that he had not had the estate agent out to look at the property since January because it was still occupied. It was his intention, as soon as the Respondents vacated, to inspect the property to see if repairs/improvements were required to put it in a condition to sell, and he would place it on the market as soon as he could.

Findings in Fact

1. The parties entered into a Tenancy Agreement in respect of the property;
2. The Tenancy Agreement had a commencement date of 26th February 2018;
3. Notice to Leave was served on the Respondent on 7th January 2021 by email giving a leaving date of 9th July 2021;
4. The Applicant intends to sell, or at least put the property up for sale as soon as he can.

Reasons for Decision

Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 states:

1(1)It is an eviction ground that the landlord intends to sell the let property.

(2)The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—

(a)is entitled to sell the let property,

(b)intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and

(c)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3)Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a)a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b)a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

The Tribunal are satisfied that the ground has been met as the Applicant intends to sell the property for market value, or at least put it up for sale, by advertising with an estate agent within 3 months of the Respondents seeking to occupy it.

The Tribunal were also satisfied that it was reasonable. The Applicant wishes to sell because he is finding renting the property to be stressful. The Respondents did not appear to state any reasons why it would not be reasonable.

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.



25/10/201

Legal Member/Chair

Date