



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/21/2233

Re: Property at 17 Woodlands Crescent, Westhill, Inverness, IV2 5DY (“the Property”)

Parties:

Dr Mohammed Jamshid Idris and Mrs Rahil Kauser, Street 205, Villa 87 Ain Khaled, Doha, Qatar (“the applicants”)

Ms Lee-Anne Turner, 17 Woodlands Crescent, Westhill, Inverness, IV2 5DY (“the respondent”)

Tribunal Members:

David Preston (Convener) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that an order for eviction by granted in favour of the Applicants.

Background

1. An application dated 6 October 2021 for an Order for Eviction was made to the Housing and Property Chamber. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The application was made under grounds 1 and 12 of schedule 3 of the Private Housing (Tenancies) Act 2016.
2. The papers before the tribunal comprised:
 - a. Private Residential Tenancy Agreement dated 14 November 2018;
 - b. Notice to Leave dated 8 December 2020;
 - c. Notice under section 11 of the Homelessness et cetera (Scotland) Act 2003;
 - d. Rent Statement covering the period June 2020 to July 2021 showing arrears at that date of £12,530;
 - e. Letter dated 16 November 2020 from MacLeod and MacCallum confirming their instructions in relation to the sale of the property;

- f. Pre-action Requirement letters dated 29 June and 6 August 2021;
 - g. Affidavit of the first named applicant dated 15 December 2021 confirming his intention to proceed with the sale of the property.
3. By Decision dated 9 November 2021, a convener of HPC having delegated authority for the purpose, referred the application under Rule 9 to a Case Management Discussion (CMD).
 4. On 21 December 2021 a CMD was convened by telephone in accordance with the provisions for dealing with business during the COVID-19 pandemic. Present by telephone at the CMD were: Mr Graham Laughton, Solicitor, representing the applicants; and the respondent.
 5. The convener explained that at the purpose of the CMD was to identify any disputed issues which would fall to be determined at a full hearing of the application unless the tribunal was satisfied that it had sufficient information to make a determination at the CMD and that it was satisfied that in all the circumstances it was reasonable for an Order for Eviction to be granted.

Discussion

6. The respondent advised that she was not arguing about the election. She accepted that she was unable to maintain the rental payments and had sought assistance from the Local Authority who had advised her that they would not be in position to provide alternative accommodation unless an Order for Eviction had been granted against her. She therefore had no objection to an Eviction Order being granted at the CMD.
7. Mr Laughton referred to the Affidavit which had been lodged in support of ground 1 and confirmed that his clients continued to seek an Eviction Order.

Outcome

8. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
9. The tribunal was satisfied that the statutory requirements in relation to an Order for Eviction had been met. It noted that the respondent required an Order for Eviction to allow her application for housing to be progressed by the Local Authority. It was also satisfied that in the circumstances it was reasonable to grant the Order for eviction.

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.