



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/22/0145

Re: Property at 105 Millgate Crescent, Airdrie, ML6 7QY (“the Property”)

Parties:

Ms Clare Lambert, 1 Seyburn Wynd, Elgin, Moray, IV30 4PH (“the Applicant”)

Ms Lynn Blades, 105 Millgate Crescent, Airdrie, ML6 7QY (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent under section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016. The Tribunal also superseded Extract for a period of 8 weeks.

Introduction

This Hearing concerned an Application for Eviction in relation to a Private Residential Tenancy under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016. The Hearing took place by teleconference due to the covid-19 pandemic.

1. Attendance and Representation

Miss Louise Crofton, Your Move McLaughlin, 82A Whifflet Street, Coatbridge, ML5 4EJ. attended for the Applicant.

The Respondent was not present. The Respondent had been served by Sheriff Officer on 17th May 2022. An email had been sent by the Respondent on 4th June 2022 with some information.

2. Preliminary Matters

The Tribunal noted the Respondent was not present. The Applicant's representative said that she has had regular phone calls with the Respondent ensuring she was aware of matters. She said the last call was a few weeks ago. The Applicant's representative discussed that the Respondent was given 6 months notice but was unable to leave the property in January 2022. She said there had never been a period of time when the Respondent had not been in touch with her. The Applicant's representative said the Respondent was happy to leave the property but she was not in a position to do so yet.

There were no other preliminary issues raised.

3. Summary of Discussion

The Applicant's representative set out that the Applicant needs to sell the property and she sought an eviction order.

The Applicant's representative set out the Applicant has owned the property since 2008. This was a long term rent but the Applicant financially needs to sell it. The Applicant's representative said that the Applicant's financial situation meant she needed to sell the property. This was the only property she rents out. The Applicant's representative set out the property would be sold as soon as same is vacant.

The Applicant's representative said that the tenant has been a good tenant and not any issues until some financial issues recently.

The Tribunal discussed the Respondents' email of 4th June and were told the Respondent had 3 school age children and they go to school in the village. The Applicant's representative said the Respondent's intention was to get a council property as she cannot afford another rental property. She has been offered something in the same village she is in just now but no date regarding moving in. The Applicant's representative said the Respondent was in full time employment and recently became unable to work due to health issues. She was in hospital and was now seeking benefits. The property is a 3 bedroom townhouse. The Applicant's representative moved into the property in 2015 with her partner and the tenancy was then made in her own name in 2018 following the death of her partner.

4. Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made in the absence of the Respondent. The Respondent had been served by Sheriff Officer**

on 17th May 2022. The Tribunal had received an email from the Respondent on 4th June 2022. It was in the interests of the parties having regard to the Overriding objective to proceed.

2. The Applicant sought an Order for Eviction on ground 1 that she intended to sell the property.
3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.
4. There was a PRT in place between parties dated 30th October 2018. A Notice to Leave was sent to the Respondent on 9th July 2021. The Respondent has been resident in the property since 2015 and signed a PRT in her name only in 2018 following the death of her partner.
5. The Tribunal was satisfied on balance that the Applicants in terms of Schedule 3, Part 1 Ground 1 of the 2016 Act that the Applicant intends to sell the property. The Tribunal was in receipt of marketing information and a contract and the Applicant's representative's credible oral evidence given to the Hearing.
6. Further the Tribunal was satisfied on a balance that it was reasonable that an Order for Eviction be granted. The Tribunal balanced the Applicant's circumstances alongside the Respondent's circumstances as had been narrated. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.
7. However the Tribunal in terms of the overriding objective, interest of justice, reasonableness and balancing the interest of both parties in particular as it was a matter of knowledge that the Respondent lived in the property with school aged children determined extract should be superseded for a period of 8 weeks to allow further time for the Respondent's new accommodation to become ready.

5. Reasons for Decision in Absence.

The Tribunal heard credible and reliable evidence from the Applicant's representative together with the written application which narrated the position of the Applicant in terms of her financial position. The Tribunal did, although the decision was made in absence, consider the position of the Respondent. Accordingly, the Tribunal considered a supersession of decree was appropriate in all the circumstances.

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

22 June 2022

Legal Member/Chair

Date