



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/22/0516

Re: Property at 0/2 7 Westbank Quadrant, Glasgow, G12 8NT (“the Property”)

Parties:

Mr Barry Stirling, Mrs Oonagh Stirling, 714 Clarkston Road, Glasgow, G44 3YR (“the Applicants”)

Mr Jonathan Mcquade, 0/2 7 Westbank Quadrant, Glasgow, G12 8NT (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member) and Gordon Laurie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This was an application for an eviction order dated 23rd February 2022 and brought in terms of Rule 109 (Application for an eviction order) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicants sought an eviction order in relation to the Property against the Respondent, and provided with their application copies of the private residential tenancy agreement, notice to leave, section 11 notice, relevant executions of service, and a letter from their solicitor and a marketing report from their estate agents.

All of these documents and forms had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and the procedures set out in that Act appeared to have been correctly followed and applied. The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 21st April 2022, and the Tribunal was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held at 14.00 on 1st June 2022 by Tele-Conference. The Applicants did not participate, but were represented by Mr Stevenson, solicitor. The Respondent participated, and was not represented.

The Tribunal was invited by Mr Stevenson with reference to the application and papers to grant the order sought on ground 1 of Schedule 3 to the *Private Housing (Tenancies) (Scotland) Act 2016*.

The notice to leave dated 9th July 2022 relied on ground 1 of Schedule 3 to the *Private Housing (Tenancies) (Scotland) Act 2016*. It narrated that the Applicants intended to sell the Property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it.

The Applicants produced a letter from Clarity Simplicity, solicitors, dated 31st January 2022 confirming that they were prepared to act in the sale of the Property, together with a marketing report for the Property dated 24th June 2021 from Allen & Harris, estate agents.

The Respondent explained to the Tribunal that he had a serious health condition, but that he had not read all the papers relating to the application as he did not see any point in doing so. The Tribunal explained that it had to consider if it was reasonable for it to grant the order sought, and in doing so would consider the Respondent's position and any submissions he might make very carefully in deciding whether or not to grant the order.

The Tribunal asked the Respondent if he wished to oppose the granting of the order, to which he replied that he did not care before leaving the Tele-Conference.

Statement of Reasons

In terms of Section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* ("the Act") as amended by the *Coronavirus (Scotland) Act 2020*, the Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

Para 1 of Schedule 3 to the Act provides that it is an eviction ground that the landlord intends to sell the let property. The Tribunal may find that this ground applies if the landlord (1) is entitled to sell the let property, (2) 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 (3) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts. Evidence tending to show that intention includes a letter of engagement from a solicitor or estate agent concerning the sale of the let property.

The Tribunal was satisfied that ground 1 had been established. The landlord was entitled to sell the Property, and intended to sell it, as evidenced by the letter from their solicitor and marketing report from their estate agents. The Tribunal was satisfied that it was reasonable to issue an eviction order. The Respondent did not indicate that he opposed the order, and did not provide any detailed information to support any basis for doing so.

Decision

In these circumstances, the Tribunal made an order for possession of the house let on the tenancy as sought in this application.

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.

N. K

01 June 2022

Legal Member/Chair

Date