



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 (“the Act”) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/22/0590

Re: Property at 3 Castle Avenue, Port Seton, EH32 0EL (“the Property”)

Parties:

Mrs Linda Donaldson, 35 Castle Avenue, Port Seton, EH32 0EL (“the Applicant”) per agents, Messrs Garden, Stirling, Burnet, solicitors, 39, High Street, Dunbar EH42 1EW

Ms Shannon Slight and Mr Neal Hopkinson, 3 Castle Avenue, Port Seton, EH32 0EL (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the second -named Respondent)

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

1. By application received between 1 and 16 March 2022 (“the Application”), the Applicant’s Agents applied to the Tribunal for an Order for eviction and possession of the Property based on Ground 1 of the Act that the Applicant intends to sell the Property. The Application comprised a copy of the private residential tenancy between the Parties, copy correspondence between the Applicant and her solicitors and estate agents showing an intention to market the Property for sale, copy Notice to Leave in terms of Ground 1 of Schedule 3 to the Act and copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to East Lothian Council, being the relevant local authority.
2. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 10 June 2022 at 14.00 by telephone conference. The CMD was intimated to the Parties and, in particular, was served on the Respondents by Sheriff Officer on 4 May 2022. Prior to the CMD, the Applicant’s Agents advised the Tribunal that the second-named Respondent had vacated the Property.

CMD

3. The CMD took place on 10 June 2022 at 14.00 by telephone. The Applicant did not take part and was represented by Mr. Macleod of the Applicant's Agents. The second-named Respondent did not take part, was not represented, nor did he submit any written representations. Ms. Slight, the first-named Respondent took part and was not represented.
4. The Tribunal explained that the purpose of the CMD was to identify the issues between the Parties, to determine if the Ground for the Order is satisfied and to determine if it is reasonable to grant the Order. The Tribunal confirmed that it was satisfied that correct statutory procedures had been carried out and that the Ground on which the Application was raised is established. However, the Tribunal must be satisfied that it is reasonable to issue an eviction order on account of those facts.
5. The Tribunal asked Ms. Slight for her view on the Application. Ms. Slight stated conclusively that she did not oppose the Application and is content to remove from the Property. She explained that she has made enquiries with East Lothian Council in respect of alternative accommodation and has been told that she must wait until an eviction order is granted to be considered. She explained that she lives alone with her daughter who is aged just under three years.
6. On behalf of the Applicant, Mr. Macleod advised the Tribunal that the Applicant intends to sell the property as she is now a full-time carer and no longer wishes to be a landlord. He explained further that the Applicant requires to sell the Property to release financial capital.
7. The issue for the Tribunal is to determine if it is reasonable to grant the Order. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussionincluding making a decision*" adjourned briefly to consider if the information before it at the CMD was sufficient to make a decision without further procedure. The Tribunal took the view that it had sufficient information and so proceeded to determine the Application.

Findings in Fact

8. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a private residential tenancy of the Property between the Parties;
 - ii) The Applicant intends to sell the Property and require vacant possession;
 - iii) The Applicant has carried out the statutory processes required by the Act;
 - iv) The second-named Respondent has vacated the Property;
 - v) The first-named Respondent does not oppose the Application and is taking steps to remove from the Property;
and
 - vi) The first-named Respondent has a young child who resides with her.

Decision and Reasons for Decision

9. The Tribunal had regard to all the information before it and to its Findings in Fact.

10. The Tribunal considered if it could be satisfied that it is reasonable to issue an eviction order on account of those facts and on all of the information before it. The Tribunal had cognisance of the fact the Application was not opposed and that the first-named Respondent intends to seek alternative housing from the local authority who have a duty to provide housing to her and her child. The Tribunal was therefore satisfied that it is reasonable to issue an eviction order. However, the Tribunal had regard to the first-named Respondent's specific housing needs in respect of her child and took the view that it was appropriate to defer the date on which the eviction order comes into force until 10 August 2022 to allow the first-named Respondent sufficient time to secure alternative suitable accommodation.

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.

K. M

10 June 2022

Legal Member/Chair

Date