



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/22/0839

Re: Property at 121 Polton Street, Bonnyrigg, EH19 3DJ (“the Property”)

Parties:

Mrs Wendy Bell, 13 Dalhousie Drive, Bonnyrigg, EH19 2NA (“the Applicant”)

Ms Maureen Gilluley, 121 Polton Street, Bonnyrigg, EH19 3DJ (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 of schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016

- Background
 1. An application was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of the Applicant’s intention to sell the Property, being Ground 1 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).
- Case Management Discussion
 2. A Case Management Discussion (“CMD”) took place on 19 July 2022 by tele-conference. The Applicant was represented by Mr Currie of Jones Whyte. The

Respondent appeared personally and was supported by her niece, Stacey Gilluley.

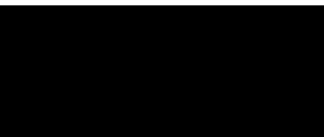
3. The Applicant's representative moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement ("the Agreement"), which commenced 30 June 2018. The Applicant intended to sell the Property and required vacant possession in order to do so. A Notice to Leave had been served on the Respondent on the basis of Ground 1 of Schedule 3 to the 2016 Act, on 22 August 2021. The Applicant required to sell the Property in order to pay off personal debts. A purchaser had been found, but the sale could not progress and a date of entry be agreed until an order is obtained for repossession of the Property. The Applicant was concerned that if there was further delay, the purchaser may lose patience and the sale fall through.
4. The Respondent submitted that she was not in a position to obtain another private let due to her own financial problems. She wants to be rehoused by the local authority, but has been advised by the local authority to remain in the Property and wait until an order is granted by the Tribunal. She submitted that she hopes that the Order is granted. She can then contact the local authority and advise them of that, and this will move the process along for her to be provided with accommodation. She lives in the Property alone.
5. The following documents were lodged alongside the application:
 - (i) Copy Private Residential Tenancy Agreement
 - (ii) Copy Notice to Leave
 - (iii) Section 11 notification to the local authority under the Homelessness etc. (Scotland) Act 2003
 - (iv) Screenshot of the Property being marketed for sale
 - Findings in Fact
6. The Tribunal made the following findings in fact:
 - (i) The parties entered into a Private Residential Tenancy Agreement which commenced on 30 June 2018;
 - (ii) The Applicant is the heritable proprietor of the Property;
 - (iii) The Applicant is entitled to sell the Property;
 - (iv) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 1 of Schedule 3 to the 2016 Act;
 - (v) The Applicant has provided evidence of the marketing of the Property.
 - Reasons for Decision
7. The Tribunal was satisfied that the terms of Ground 1 of Schedule 3 to the 2016 Act had been met, namely that the Applicant intends to sell the property and intends to do so within 3 months of the Respondent ceasing to occupy it. The Tribunal was satisfied that a Notice to Leave had been served on the

Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act. Taking into account the submissions made by the Respondent regarding her hoping that the Order is granted to aid her position as regards being rehoused by the local authority, and the reasons for the Applicant requiring to sell the Property, the Tribunal was satisfied that it is reasonable to grant the Order.

- Decision
8. The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

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.



Legal Member/Chair: Fiona Watson
Date: 19 July 2022