



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

Chamber Ref: FTS/HPC/EV/22/0975

Re: Property at 106 Durward Rise, Livingston, EH54 6HY (“the Property”)

Parties:

Mr Adrian Kay, 54 Chuckethall Road, Deans, Livingston, West Lothian, EH54 8FB (“the Applicant”) per his agents, Almond Valley Property Centre, 7/8, Inchwood Park, Bathgate, West Lothian, EH49 2FY (the Applicant’s Agents)

Mr Brandon Turnbull, 106 Durward Rise, Livingston, EH54 6HY (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Sandra Brydon (Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory ground for eviction and recovery of possession having been established, it is reasonable to grant the Order sought and so the Tribunal granted the Order.

1. By application received between 4 April 2022 and 15 July 2022 (“the Application”), the Applicant’s Agents applied to the Tribunal for an Order for possession of the Property based on Ground 1, the landlord intends to sell the let property of Schedule 3 to the Act. The Application comprised copy Notice to Leave dated 10 September 2021, copy private residential tenancy agreement between the Parties, copy letter from an estate agent, Property Connections, confirming an instruction to market the Property and copy notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to West Lothian Council, being the relevant local authority. The Application was accepted by the Tribunal and

a Case Management Discussion (the “CMD”) was fixed for 21 October 2022 at 10.00 by telephone conference. The CMD was intimated to the Parties and, in particular, was served on the Respondent by sheriff officer on 7 September 2022.

CMD

2. The CMD took place on for 21 October 2022 at 10.00 by telephone. The Applicant and Ms. Hepworth of the Applicant’s Agents took part. behalf. The Respondent took part and was not represented.
3. The Tribunal explained that the purpose of the CMD was to identify the facts of the matter and to determine if the Tribunal had enough information in respect of establishing the statutory Ground and if it is reasonable to grant the Order. The Tribunal noted from the Application that the correct statutory procedures had been carried out.
4. Mr. Kay advised the Tribunal, that although Ms. Hepworth of the Applicant’s Agents represented him, as owner of the Applicant’s Agents, he would speak on his own behalf. Mr. Kay advised the Tribunal that his business is that of a property professional with a portfolio of properties. He explained that he has made a commercial business decision to sell his portfolio and has engaged Property Connections to sell his portfolio when the properties become available and are refurbished for sale. He explained that he is working through an area by area programme of recovering possession and refurbishing and that there is no significant reason for the Application other than that it is in the Durward Rise area.
5. Mr. Turnbull advised the Tribunal that he is a single man who lives alone. He suffers from anxiety and has recently lost his job and is in receipt of universal Credit. He stated that he did not dispute Mr. Kay’s intention to sell the Property. He explained that he has made enquiries with the local authority for rehousing and had been advised to remain in the Property pending the tribunal process.

Issue for the Tribunal

6. The issue for the Tribunal is to determine if the statutory ground is established and 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*”. The Tribunal took the view that it had sufficient information to make a decision on both the statutory ground and reasonableness and so proceeded to determine the Application.

Findings in Fact

7. From the Application and the CMD, the Tribunal made the following findings in fact: -
- i) There is a tenancy of the Property between the Parties;
 - ii) The Applicant has a portfolio of properties which he is in the process of selling;
 - iii) The Applicant intends to refurbish and sell the Property when he has secured vacant possession;
 - iv) The Applicant has carried out the statutory processes required by the Act;
 - v) The Respondent is a single man with no dependants;
 - vi) The Respondent is making attempts to obtain alternative accommodation.

Decision and Reasons for Decision

8. The Tribunal had regard to all the information before it and to its Findings in Fact and found that the statutory ground is established.
9. The Tribunal then 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 regard to the fact that the Respondent does not dispute the Ground for the Application and has no special or additional needs which should be taken into account. The Tribunal noted that the Respondent has made attempts to find alternative accommodation and appreciates that this may take some time. On balance, the Tribunal was satisfied that it is reasonable to issue an eviction order but determined that the Order should be stayed until 6 January 2023 to allow the Respondent sufficient time to secure alternative 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. Moore

Legal Member/Chair

21 October 2022
Date