



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/22/2916

Re: Property at 4 Carmichael Gardens, Dundee, DD3 6LX (“the Property”)

Parties:

Mrs Varsha Linzee-Gordon, 9 East Abercromby Street, Helensburgh, G84 7SP (“the Applicant”)

Ms Fehintola Nkem-Ekpeni, Mr Leonard Ekpeni, 4 Carmichael Gardens, Dundee, DD3 6LX (“the Respondents”)

Tribunal Members:

Neil Kinnear (Legal Member) and Angus Lamont (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 17th August 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 Applicant sought an eviction order in relation to the Property against the Respondents, and provided with her application copies of the private residential tenancy agreement, notice to leave and proof of service, section 11 notice and proof of service, and various correspondence.

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*, the *Coronavirus (Scotland) Act 2020*, and the *Coronavirus (Scotland) Act 2020 (Eviction from Dwelling-houses)(Notice Periods) Modification Regulations 2020*, and the

procedures set out in those Acts and that Regulation appeared to have been correctly followed and applied.

The Respondents had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 15th December 2022, and the Tribunal was provided with the executions of service.

Both parties made representations by e-mail to the Tribunal in advance of the Case Management Discussion.

Case Management Discussion

A Case Management Discussion was held at 10:00 on 20th April 2023 by Tele-Conference. The Applicant did not participate, but was represented by Miss Young, letting agent. The Respondents participated, and were not represented.

The Respondents confirmed that they did not oppose the granting of the order sought, but wished more time to move into alternative accommodation.

Miss Young confirmed that due to a change in the Applicant's personal circumstances involving her health, which Miss Young explained to the Tribunal in more detail, she required to sell the Property in a short time-scale.

However, the Applicant recognised the Respondents' situation, and Miss Young suggested that a two month period before the order might be enforced to move into alternative accommodation was acceptable. The Respondents were content with that proposal.

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.

The Tribunal was satisfied that ground 1 had been established. The landlord was entitled to sell the Property, and intended to sell it.

The Tribunal was satisfied that it was reasonable to issue an eviction order. The Respondents did not oppose the order sought.

Decision

In these circumstances, the Tribunal made an eviction order against the Respondents 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.

Neil Kinnear

Legal Member/Chair

20th April 2023

Date