



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 (Act)

Chamber Ref: FTS/HPC/EV/22/3401

Re: Property at 16 Morris Crescent, Blantyre, Glasgow, G72 0BY (“the Property”)

Parties:

Mr Alan McDade, 13 Montieth Place, Blantyre, Glasgow, G72 9AN (“the Applicant”)

Mr Richard Collins, Miss Kimberley Reynolds, 16 Morris Crescent, Blantyre, Glasgow, G72 0BY (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.

Background

This is an application under Rule 109 and section 51(1) of the Act in respect of the Applicants’ intention to sell the Property and for eviction and recovery of possession on Ground 1 of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application received 16 September 2022;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 8 August 2019;
3. Notice to Leave dated 21 June 2022 and served by email on that date;
4. Section 11 Notice to Local Authority;
5. Email dated 16 October 2022 to Local Authority serving Section 11 Notice;
6. Letter from estate agents confirming instruction to market and sell the Property dated 10 September 2022;

7. Sheriff Officer Certificate of Service of Tribunal CMD Notification on Respondent dated 20 January 2023.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 2 March 2023. The Applicant participated and represented himself. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate but they did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that they should attend and the Tribunal could determine the matter in absence if they did not.

The Applicant confirmed his intention to sell the Property due to family circumstances and it was his intention to move from the area. He had a mortgage on the Property. The sale of the Property would help finance the Applicant and his family moving to another property/area. The Respondent lived in the Property with their 2 children. Beyond that the Applicant was unable to provide more detail about the Respondent's circumstances.

Having heard from the Applicants' representative the Tribunal had regard to the terms of Ground 1:

Landlord intends to sell

1(1) It is an eviction ground that the landlord intends to sell the let property.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—

(a) is entitled to sell the let property,

(b) 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

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

The Tribunal then considered the documentary and oral evidence it had received from the Applicant and in so far as material made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 16 September 2019;
2. The monthly rent was £475;
3. The Applicant is the owner of the Property and intends to sell it or at least put it up for sale within 3 months of the Respondent ceasing to occupy it;
4. Notice to Leave had been served on the Respondent by personal delivery and email;
5. The Applicant has engaged estate agents to market and sell the Property;
6. Section 11 notification had been served on the local authority on 16 October 2022;
7. The Applicant has an outstanding mortgage on the Property;
8. Due to family circumstances the Applicant requires the Property to be sold;
9. It is reasonable to grant the order for recovery of possession.

The Tribunal considered all of the evidence and submissions. The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal determined that it would be reasonable to grant the order.

The Tribunal was satisfied that Ground 1 had been established and accordingly granted the application for eviction and recovery of possession.

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.

Alan Strain

2 March 2023

Legal Member/Chair

Date