



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.

Chamber Ref: FTS/HPC/EV/22/3728

Re: Property at 0/2 15 Skirsa Street, Glasgow, G23 5AJ (“the Property”)

Parties:

Tonero Ltd, 1/2 23 Milovaig Street, Glasgow, G23 5JA (“the Applicant”)

Ms Jean Tresa Amos, 0/2 15 Skirsa Street, Glasgow, G23 5AJ (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Eileen Shand (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”);

- 1. Grants an Eviction Order against the Respondent, and**
- 2. orders a delay of 8 weeks in the execution of the Order in terms of Rule 16A(d) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2018**

Introduction

- 1. This Hearing was a Case Management Discussion (hereinafter referred to as a “CMD”) concerned an Application for an Eviction Order under the Private Housing (Tenancies) (Scotland) Act 2016. The purpose of the CMD being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision could be made. The hearing took place by teleconference.**

2. Attendance and Representation.

The Applicant was present.

The Respondent was present.

3. Preliminary Matters.

There were no preliminary matters raised.

4. Case Management Discussion.

For the Applicant

The Applicant sought that the Tribunal grant an Order for Eviction. He explained he was the only director and owner of the Applicant and landlord company. The Applicant said he issued a Notice to Leave in respect to this Private Residential Tenancy (PRT) as he wants to live in the property as his permanent residence. The notice was sent in July 2022. He said further that his current residence is not suitable for him to reside in and that he had been using it as storage. The location of the PRT is close to his work, colleagues and his church.

The Applicant explained further that he owns his current flat but it is being used for storage and requires maintenance work. The Applicant said he owns 5 properties and the current property he seeks the order for is one of them. The rest have tenants. The Applicant considers that this property which he purchased in July 2019 is best for him to reside in permanently as it has 2 bedrooms and in relatively good condition.

For the Respondent

The Respondent advised she was not opposed to the order as she does not wish to reside in the property long term. She obtained it following a domestic abuse situation, she is 56 years of age and in poor health. She explained that she suffers from poor mental health and COPD. She has not left the property since December 2022 due to her mental health. The Respondent explained before December 2022 she had lost a significant amount of weight. She has a domestic abuse support worker and is currently trying to secure alternative accommodation but she requires suitable accommodation due to her significant disability. The current property is ground floor and whilst not adapted to her needs meets same from a physical point of view. She continued to advise the Tribunal she was not opposed to the Order. The Respondent also explained in detail that she has had to leave the property on a couple of occasions during the tenancy for disrepair reasons and on one occasion a ceiling fell down and she had to be housed somewhere else for 5 to 6 months.

Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Hearing and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. Both parties were present personally and were able to provide the necessary information to the Tribunal.**
- 2. The Applicant sought an Order for Eviction on the grounds that he wished to reside in the property as his principle home.**
- 3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.**
- 4. There was a PRT in place between parties dated 31st January 2020.**
- 5. A Notice to Leave was sent to the Respondent on 6th July 2022 and this was accepted.**
- 6. The Tribunal was satisfied on balance that the Respondent was in terms of Schedule 3, Part 1 Ground 4 of the 2016 Act intending to live in the let property and that he intends to occupy the let property as his only or principal home for at least 3 months.**
- 7. The Tribunal found that the requirements of Ground 4, Part 1 of Schedule 3 to the Act had been met. This was not disputed by the Respondent.**
- 8. The Tribunal was also satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.**
- 9. The Tribunal noted the Local Authority under the 2016 had been notified.**
- 10. On the evidence available to the Tribunal the Respondent had significant disability and whilst she did not oppose the Application the Tribunal noted as material that she was single, 56 years of age, had significant mental ill health and had physical ill health. The Respondent had not left the property due to mental ill health since December 2022. She had been attempting to find alternative accommodation and she was the victim of prior domestic abuse. The Respondent's disability meant she has a list of requirements for any alternative accommodation. The Applicant has 5 properties and he is currently residing in one property which he considers not to be suitable for residence and for which he uses as storage. Said property is not close to his colleagues, friends and church. The property also requires maintenance. The Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020. However in terms of the overriding objective given the disability of the Respondent the Tribunal decided to order a delay of 8 weeks in the execution of the Order in terms of Rule 16A(d) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2018**
- 11. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.**

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 Kirk

6th March 2023

Legal Member/Chair

Date