



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/22/3966

Re: Property at Crestwood, Greenfield Crescent, Wishaw, ML2 8NZ (“the Property”)

Parties:

Mr Robert Good, 26 Glen Road, Wishaw, ML2 7NL (“the Applicant”)

Mr Harry Barr, Miss Sharon Scott, Crestwood, Greenfield Crescent, Wishaw, ML2 8NZ (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Linda Reid (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 27th October 2023 which was received on 31st October 2023. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of the Private Housing (Tenancies) Act 2016.
2. On 18th April 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 25th May 2023 at 10am by teleconferencing. The letter also requested all written representations be submitted by 26th May 2023.

3. On 20th April 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondents by letterbox service. This was evidenced by Certificate of Intimation dated 20th April 2023.
4. On 21st April 2023 the Second Named Respondent, Miss Scott, emailed the Housing and Property Chamber to request a postponement. This was to allow her to attend pre wedding appointments as she was to get married to the First Named Respondent on 26th May 2023. The postponement request was granted on 26th April 2023.
5. On or around 27th April all parties were notified of the postponement. All parties were written to on 15th June 2023 advising of the new date of 12th July 2023 at 10am by teleconferencing.
6. On 14th June 2023 the Applicant emailed the Housing and Property Chamber to advise that his representative was no longer representing him.

The Case Management Discussion

7. A CMD was held on 12th July 2023 at 10am by teleconferencing. The Applicant was present and represented himself. The Second Named Respondent, Miss Scott, was present and represented herself. She told the Tribunal that she was speaking on behalf of the First Named Respondent, Mr Harry Barr.
8. The Applicant told the Tribunal that although that he has now stopped working with the letting and estate agent who were representing him he has now engaged another estate agent for selling the Property. He is not able to proceed to sell the Property until he has vacant possession of the Property. The Applicant has decided to sell the Property to ease financial pressure upon him. He only has this property that he lets out.
9. The Second Named Respondent said she did not oppose an order being granted to allow the Applicant to sell the Property. The Respondents have recently got married. As a wedding gift they have been given a substantial sum of money that will allow them to purchase a property without a mortgage. They are actively looking at properties within their price range with the view to buy as soon as possible. The Second Named Respondent confirmed that the Respondents had received the Notice to Leave even though the postman did not obtain signatures for the recorded delivery letters.
10. The Tribunal noted that this case was caught by the Cost of Living (Tenant Protection) (Scotland) Act 2022 which means that the Order will not be able to be enforced for 6 months. However, should the Respondents be in a position to move out then they can give the appropriate notice to the Applicant. They will continue to have a legal obligation to pay the rent as long as they have possession of the Property. They can take further advice on this point if they wish to do so.

Findings and reason for decision

11. A Private Rented Tenancy Agreement commenced 21st August 2021.
12. The Applicant intends to sell the Property to resolve on going financial pressures. He has engaged an estate agent but cannot proceed until he has vacant possession of the Property.
13. The Respondents are actively looking to purchase a property of their own. They do not need a mortgage.
14. The Respondents do not oppose an order being granted.
15. There are no issues of reasonableness to prevent an order being granted.

Decision

16. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant.

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.

Gabrielle Miller

12th July 2023

Legal Member/Chair

Date