



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/23/0474

Property : 9 Chestnut Crescent, East Kilbride G75 9EL (“Property”)

Parties:

Jillian Esslemont, 319 Glasgow Road, Eaglesham, Glasgow G76 OER (“Applicant”)

Nicole Jones, 9 Chestnut Crescent, East Kilbride G75 9EL (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to make an order for possession of the Property.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E along with a Private Residential Tenancy Agreement dated 4 and 7 June 2021; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 3 August 2022 ("NTL") with covering email dated 3 August 2022; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 20 February 2023 and email from Home Connexions dated 27 July 2022 stating they were assisting with the sale of the Property. The Tribunal had sight of a certificate of service from sheriff officers evidencing service of the Application on the Respondent on 20 March 2023.

Case Management Discussion

A case management discussion (“CMD”) took place before the Tribunal on 20 April 2023 by teleconference. The Applicant was in attendance. There was no appearance by the Respondent. The Applicant told the Tribunal that she understood that the Respondent was to vacate the Property on 21 April and was to be housed in temporary

accommodation by the local authority. She said she understood that the Respondent lived in the Property with her partner and children. She was a good tenant about whom she had no complaints. The Applicant said that she had owned the Property since 2019. She said that her income had reduced. She said that she was a single parent and between her reduction in income and the rising cost of living, the best thing for her to do was to sell the Property to provide a financial buffer. The Applicant told the Tribunal that she had agreed to sell the Property to South Lanarkshire Council. She said that missives would be concluded as soon as the Respondent vacated the Property. The Applicant said that she owned two other rental properties. She had decided to sell the Property rather than either of the others due to it providing less income because of the cost of the mortgage for the Property. She said that the mortgage on the Property was a variable rate and had risen.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Private Residential Tenancy Agreement dated 4 and 7 June 2021 ("Tenancy Agreement").
2. A Notice to Leave was served on the Respondent by email on 3 August 2022. It stated that an application for an eviction order would not be submitted to the Tribunal before 29 October 2022.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 20 February 2023.
4. Notice of the date of the case management discussion had been given to the Respondent on 20 March 2023.
5. The Applicant holds title to the Property and is entitled to sell the Property.
6. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act.

In terms of section 51 of the Act, the First-tier 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.

In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell. The evidence lodged with the application of intention to sell was an email from Home connexions dated 27 July 2022. The Tribunal considered the email lodged and the oral submission of the Applicant and determined that the ground for eviction had also been established.

Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order.

Decision

The Tribunal determined to grant an order for possession of the Property.

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.

Joan Devine

Legal Member

Date: 20 April 2023