



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 (“the Act”)

Chamber Ref: FTS/HPC/EV/23/0775

Re: Property at 0/1 346 Langside Road, Glasgow, G42 8XR (“the Property”)

Parties:

Mr Paul Heneghan, 21 River Wynd, Stirling, FK9 5GN (“the Applicant”)

Mr Brian McGuire, 0/1 346 Langside Road, Glasgow, G42 8XR (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Miss A Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted.

Background

1. This is a Rule 109 application made in the period between 13th April and 8th June 2023, where the Applicant is seeking an eviction order under ground 1 of the Act. The Applicant’s representative lodged a copy of the private residential tenancy agreement between the parties, which commenced on 14th September 2020, evidence of intention to sell, copy Notice to Leave with evidence of service, copy email correspondence between the parties and copy section 11 notice with evidence of service.
2. Notification of a Case Management Discussion set down for 5th September 2023 was made upon the Applicant representative and the Respondent by letter dated 2nd August 2023.
3. By email dated 28th August 2023, the Respondent’s representative lodged written representations.

The Case Management Discussion

4. A Case Management Discussion (“CMD”) took place by telephone conference on 5th September 2023. Neither party was in attendance. The Respondent was represented by Ms McBride, Solicitor. The Tribunal Clerk made several attempts to contact the Applicant representative at two different offices without success.
5. The Tribunal considered the terms of Rule 29. The Tribunal noted that, in addition to the notification of 2nd August 2023, the Applicant’s representative had also been informed of the provisional date of the CMD by email dated 26th July 2023. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Applicant.
6. Ms McBride referred to the Respondent’s position as set out in her written representations. The Respondent is not opposed to the eviction order being granted under ground 1 of the Act. There had been correspondence between the parties’ representatives in advance of the CMD regarding whether any application to amend to include ground 1A was likely, as the Applicant’s representative had referred to the Applicant’s financial hardship in correspondence. The Applicant’s representative had informed Ms McBride in an email, which was before the Tribunal, that they would not be seeking to amend the application, and would be proceeding under ground 1.
7. Responding to questions from the Tribunal, Ms McBride said the Respondent has been in touch with social housing providers and has made enquiries about private lets. It is the Respondent’s position that they wish to leave the Property, and the eviction order may help them to access support through homelessness services. The Respondent lives alone, and has no dependents. They are not in employment and are in receipt of benefits due to medical conditions. There are repairing issues within the Property that cause the Respondent concern. The Respondent has withheld rent in the past due to repairing issues. The Respondent appreciates that being evicted may cause them difficulty, given their medical conditions, however, they believe this is the best way forward for them

Findings in Fact and Law

8.
 - (i) Parties entered into a private residential tenancy agreement in respect of the Property that commenced on 14th September 2020.
 - (ii) The Applicant has served a Notice to Leave upon the Respondent.
 - (iii) The Applicant is entitled to sell the Property.
 - (iv) The Applicant intends to sell the Property for market value or at least put it up for sale within three months of the Respondent ceasing to occupy the Property.

- (v) The Respondent is not opposed to an eviction order being granted.
- (vi) The Respondent does not wish to continue to live in the Property.
- (vii) It is reasonable to grant an eviction order.

Reasons for Decision

9. Ground 1 of Schedule 3 of the Act provides that it is an eviction ground if the Landlord intends to sell the let property. The Tribunal may find the ground met if the landlord is entitled to sell the property and intends to do so for market value, or at least put it up for sale within three months of the tenants ceasing to occupy it.
10. The Tribunal accepted that the Applicant intends to sell the Property as required by the legislation. The Tribunal was satisfied that Ground 1 had been established.
11. The Tribunal considered the Respondent's circumstances, including their desire to leave the Property due to its condition, and their belief that an eviction order may assist in securing alternative housing. The Tribunal considered that the Respondent had taken all matters into account in reaching their decision, and that the Respondent was satisfied that this was the best way forward for them. There was limited information before the Tribunal on the Applicant's circumstances to assist the Tribunal in considering reasonableness. The matter of financial hardship had been mentioned by the Applicant in correspondence with their representative, but no evidence had been provided in that regard. Despite notification to the Applicant representative, they did not appear at the CMD to put forward any representations on behalf of the Applicant.
12. In all the circumstances, the Tribunal considered it reasonable to grant the order sought.

Decision

13. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on the earlier of (a) the day following the end of a period of 6 months beginning with the day on which this order was granted, or (b) the expiry or suspension of Paragraph 1 of Schedule 2 of the Cost of Living (Tenant Protection) (Scotland) Act 2022.

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.

Helen Forbes

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Legal Member/Chair

5th September 2023
Date