



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/23/0992

Re: Property at 16 Newbiggin Road, Grangemouth, FK3 0LE (“the Property”)

Parties:

Miss Hazel Mackie, Mr Kevin McLauchlin, 51 Albert Avenue, Grangemouth, FK3 9AT (“the Applicants”)

Mr Graham Douglas, Mrs Donna Douglas, 16 Newbiggin Road, Grangemouth, FK3 0LE (“the Respondents”)

Tribunal Members:

Ms H Forbes (Legal Member) and Miss E Munroe (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 case where the Applicants are seeking an eviction order under ground 4A of the Act. The Applicants’ representative lodged a copy of the private residential tenancy agreement between the parties which commenced on 2nd February 2021, evidence in support of the eviction ground, copy Notices to Leave with evidence of service, and copy section 11 notice with evidence of service.
2. By email dated 9th June 2023, the Applicants’ representative lodged written representations.

The Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by telephone conference on 12th July 2023. The Applicants were not in attendance and were represented by Mr Phil Bonnar, Solicitor. The Respondent, Mrs Douglas was in attendance, representing both Respondents.

The Applicants' position

4. Mr Bonnar set out the Applicants' position, namely that they intend to live in the Property to alleviate financial hardship. The Applicants are now in the final year of their fixed rate mortgage for the Property. The interest rate is currently 2.8% per annum, and, given the ongoing interest rate rises and forecasts of significant rises in mortgage payments, they do not expect to be able to meet the increased payments in November 2023. The payments could increase by as much as £400 or £500 each month. The Property has been deemed by SEPA as being in a medium risk flood area. The Applicants have found it increasingly difficult to procure landlord insurance, and their current policy has a £25,000 excess in the event of flood. They could not meet this excess if a flood was to occur. The Applicants intend to sell their current property and move into the Property.

The Respondents' position

5. Mrs Douglas said the Respondents would like to move out of the Property as soon as possible. The current situation is impacting upon her health. They have been in discussion with the local authority, and a local councillor, and they are on the housing list. They have been told the Council cannot re-house them until an order is granted. The Respondents are seeking a three-bedroom property, as they have two children aged 8 and 14.

Findings in Fact and Law

6.
 - (i) Parties entered into a private residential tenancy agreement in respect of the Property on 2nd February 2021.
 - (ii) The Applicants have served a Notice to Leave upon the Respondents.
 - (iii) The Applicants are suffering financial hardship.
 - (iv) The Applicants intend to alleviate the financial hardship by occupying the Property as their only or principal home for at least 3 months.
 - (v) It is reasonable to grant an eviction order.

Reasons for Decision

7. Ground 4A of Schedule 3 of the Act provides that it is an eviction ground that the landlord is suffering financial hardship. The Tribunal may find that this applies if the landlord is suffering financial hardship and intends to occupy the let property as their only or principal home for at least three months; and the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact. The Tribunal is satisfied that Ground 4A has been established.

8. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties. The Tribunal took into account the financial circumstances of the Applicants, including the likelihood of their financial circumstances worsening considerably within a short period of time. The Tribunal took into account the Respondents' position in respect of their desire to procure social housing, which appears to be unlikely to happen if the order is not granted. The Tribunal took into account the fact that the current situation is impacting upon Mrs Douglas's health, and her desire to have matters dealt with as soon as possible.
9. In all the circumstances, the Tribunal considered it reasonable to grant the order sought.

Decision

10. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 16th August 2023

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

Legal Member/Chair:

Date: 12th of July 2023