



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: Reference number: FTS/HPC/EV/23/1794

Property: 16 St. Martins Place, Haddington, EH41 4NF (“The property”)

Parties:

Ms Jennifer Taylor Elliott, residing at Flat 3 Seaton Stables, Don Street, Aberdeen, AB24 1XS (“the Applicant”)

And

Mr Derek Brannan, Mrs Alison Brannan, spouses, residing together at 16 St. Martins Place, Haddington, EH41 4NF (“the Respondents”)

Tribunal Members:

Paul Doyle (Legal Member)

Ms Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1 of schedule 3 to the 2016 Act.

Background

1. By application (made on form E) dated 02 June 2023, the applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) for an order for repossession of the property from the respondents, relying on Ground 1 of schedule 3 to the Private Housing (Tenancies)(Scotland) Act 2016. The applicant wants to sell the property.
2. By interlocutor dated 23 June 2023, the application was referred to this tribunal. On 5 & 7 July 2023 the First-tier Tribunal for Scotland (Housing and Property Chamber)

served notice of referral on both parties, directing the parties to make any further written representations.

3. A Case Management Discussion took place before the Tribunal by telephone conference at 2.00pm on 11 August 2023. The Applicant was represented by Ms K Donnelly of TC Young, solicitors. The respondents were neither present nor represented.

Findings in Fact

4. The tribunal found the following facts to be either admitted or proved

(i) On 04 May 2018 the applicants and respondent entered into a private residential tenancy agreement.

(ii) On 16 February 2023 the applicant served a notice to leave on the respondents. The applicants is heritable proprietor of the property and wants to sell the property.

(iii) On 24 March 2023 the applicant instructed estate agents to sell the property.

(iv) The respondents remain in the property. They are a retired couple. On receipt of the notice to leave they contacted the local authority housing department but were told that they would not be offered alternative housing until an order for repossession is granted.

(v) The applicant is 54 year old lecturer at Robert Gordon University in Aberdeen. She lives in small flat with a mortgage. The property (which is the subject of this application) also has a mortgage. Both mortgage deals are due to end. The applicant was recently divorced and must sell both this property and her own home to clear both mortgages. She will use the net free proceeds of the sale of both properties to buy one home to live in. The applicant does not own any other properties.

(vii) The respondents do not oppose the application. There is nothing to suggest that it is unreasonable to grant an order for repossession of the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

Reasons for the Decision

5. The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms Ground 1 of part 3 of schedule 3 to the 2016 Act is established.

6. When we balance the interests of the applicants against the interests of the respondent, we find that it is reasonable to grant an order for possession of the property.

7. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1 of schedule 3 to the 2016 Act.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

11 August 2023

Legal Member