



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/20/1390

Re: Property at Flat 0/3, 286 Springburn Road, Glasgow, G21 1SE (“the Property”)

Parties:

Jacqueline Darroch, 161 Brackenbrae, Bishopbriggs, Glasgow, G64 2EB (“the Applicant”)

Maria McQuade, Flat 0/3, 286 Springburn Road, Glasgow, G21 1SE (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This is an application for an eviction order dated 22nd June 2019 and brought in terms of Rule 109 (Application for an eviction order) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant seeks an eviction order in relation to the Property against the Respondent, and provided with her application copies of the private residential tenancy agreement, notice to leave, section 11 notice, relevant executions of service, and a letter of engagement from solicitor estate agents.

All of these documents and forms had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and the procedures set out in that Act appeared to have been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 30th July 2019, and the Tribunal was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held at 14.00 on 21st August 2020 by Tele-Conference. The Applicant did not participate, but was represented by Miss Caldwell, paralegal. The Respondent did not participate, nor was she represented. The Respondent has not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal was invited by Miss Caldwell with reference to the application and papers to grant the order sought on ground 1 of Schedule 3 to the *Private Housing (Tenancies) (Scotland) Act 2016*.

The notice to leave dated 19th November 2019 relied on ground 1 of Schedule 3 to the *Private Housing (Tenancies) (Scotland) Act 2016*. It narrated that the Applicant intends to sell the Property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it.

The Applicant has produced a sole selling rights agreement dated 15th June 2020 between her and Pacitti Jones, solicitors and estate agents, in relation to the proposed sale of the Property.

Statement of Reasons

In terms of Section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* (“the Act”), the 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.

Para 1 of Schedule 3 to the Act provides that it is an eviction ground that the landlord intends to sell the let property. The Tribunal must find that this ground applies if the landlord (1) is entitled to sell the let property, and (2) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it. Evidence tending to show that intention includes a letter of engagement from an estate agent concerning the sale of the let property.

The Tribunal is satisfied that ground 1 has been established. The landlord is entitled to sell the Property, and intends to sell it, as evidenced by the sole selling rights agreement produced.

Decision

In these circumstances, the Tribunal will make an order for possession of the house let on the tenancy as sought in this application.

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.

N. Kinnear

21st August 2020

Legal Member/Chair

Date