



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 and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/22/1646

Re: Property at 67 HARRYSMUIR GARDENS, PUMPHERSTON, EH53 0PJ (“the Property”)

Parties:

Mr Kenneth Kitching, 18 WALLACE MILL GARDENS, MID CALDER, EH53 0BD (“the Applicant”) per his agents, Rent Locally, Flexspace Unit 1, Blackburn Road, Bathgate, EH48 2EH (“the Applicant’s Agents”)

Ms Mehak Ahmed, 67 HARRYSMUIR GARDENS, PUMPHERSTON, EH53 0PJ (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory ground for eviction and recovery of possession having been established, it is reasonable to grant the Order sought and so the Tribunal granted the Order.

1. By application received between 26 May 2022 and 7 July 2022 (“the Application”), the Applicant’s Agents applied to the Tribunal for an Order for possession of the Property based on Ground 1, the landlord intends to sell the let property, of Schedule 3 to the Act. The Application comprised copy Notice to Leave dated 23 November 2021, copy private residential tenancy agreement between the Parties, copy notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to West Lothian Council, being the relevant local authority, copy correspondence between the Applicant’s Agents and West Lothian

Council and copy correspondence between the Applicant and the Applicant's Agents in respect of the marketing of the Property for sale. The Application was accepted by the Tribunal and a Case Management Discussion (the "CMD") was fixed for 26 October 2022 at 10.00 by telephone conference. The CMD was intimated to the Parties and, in particular, was served on the Respondent by sheriff officer on 13 September 2022, the intimation being left with her daughter at the Property.

CMD

2. The CMD took place on 26 October 2022 at 10.00 telephone. Mrs. Fell of the Applicant's Agents took part on his behalf. The Respondent did not take part and was not represented. She did not submit any written representations.
3. The Tribunal explained that the purpose of the CMD was to identify the facts of the matter, and in the absence of any response from the Respondent, to determine if the Tribunal can grant the Order. The Tribunal noted from the Application that the correct statutory procedures had been carried out and asked Mrs. Fell to explain further the reasons for the Applicant's intention to sell and to provide further information in respect of the circumstances of the Parties.
4. Mrs. Fell advised the Tribunal that, as far as she was aware, the Applicant required to sell the Property for personal financial reasons as he requires to release the capital from the Property. With regard to the Respondent, Mrs. Fell advised that the Respondent resided in the Property with her two children whose ages are not known to Mrs. Fell. Mrs. Fell explained that she had attempted to contact the Respondent in person but the Respondent was reluctant to meet her face-to-face and that Mrs. Fell dealt with the Respondent's daughter who appeared to be in her mid to late teens. Mrs. Fell had contacted West Lothian Council, as local housing authority, to assist the Respondent find alternative accommodation and had been advised that the Respondent had been advised to remain in the Property until an Order is granted. Mrs. Fell also thought that the Respondent might be able to reside with her mother temporarily.

Issue for the Tribunal

5. The issue for the Tribunal is to determine if the statutory ground is established and if it is reasonable to grant the Order. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussionincluding making a decision*". The Tribunal took the view that it had sufficient information to make a decision on both the statutory ground and reasonableness and so proceeded to determine the Application.

Findings in Fact

6. From the Application and the CMD, the Tribunal made the following findings in fact: -
- i) There is a tenancy of the Property between the Parties;
 - ii) The Applicant intends to sell the Property;
 - iii) The Applicant has carried out the statutory processes required by the Act;
 - iv) The Respondent resides in the Property with her two children and
 - v) There is no evidence that the Respondent or her children have additional needs or requirements

Decision and Reasons for Decision

7. The Tribunal had regard to all the information before it and to its Findings in Fact and found that the statutory ground is established.
8. The Tribunal then considered if it could be satisfied that it is reasonable to issue an eviction order on account of those facts and on all of the information before it. The Tribunal had regard to the fact that the Applicant requires to sell the Property for financial reasons. The Tribunal noted that the Respondent, by her lack of engagement with the tribunal process, has not put forward any objection or opposition to the Application. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction order.

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.

Karen Moore

Legal Member/Chair

26 October 2022
Date