



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: FTS/HPC/EV/20/1870

Re: Property at 16 Andrew Welsh Way, Arbroath, DD11 1LS (“the Property”)

Parties:

Mr Iain Webster, 8 Lochlands Park, Arbroath, DD11 3SR (“the Applicant”)

Ms Lisa Rose Tapley, 16 Andrew Welsh Way, Arbroath, DD11 1LS (“the Respondent”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. This is an application received in the period from 7th September to 21st October 2020 made in terms of Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”) seeking an eviction order under ground 1 of the Private Rented Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The Applicant submitted a copy of the tenancy agreement between the parties, which commenced on 1st March 2019, copy Notice to Leave served on 5th February 2020, copy section 11 Notice to the Local Authority served on 14th September 2020, letter from the joint-proprietor of the Property confirming her consent to the application, and solicitor’s letter of engagement confirming instructions to sell the Property, dated 8th October 2020.
2. Intimation of the action and notification of a Case Management Discussion upon the Respondent was made by Sheriff Officers on 5th November 2020.
3. By email dated 26th November 2020, the Applicant informed the Housing and Property Chamber that a letter had been received from a solicitor acting on

behalf of the Respondent requesting that, in the event of an order for eviction being granted, the Respondent be allowed a period of three months in which to find alternative accommodation. It was stated in the solicitor's letter, dated 20th November 2020, that the Respondent had no wish to be obstructive in relation to the Applicant's plans to sell the Property. She is seeking social housing. She has three young children, and, given the time of year, it would be preferable to have sufficient time to find accommodation.

Case Management Discussion

4. A Case Management Discussion ("CMD") took place by telephone conference on 10th December 2020. The Applicant was in attendance. The Respondent was not in attendance. The Tribunal delayed the start of the CMD to allow further time for the Respondent to attend.
5. The Tribunal considered the terms of Rule 29 of the Rules. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the CMD, together with details on joining the telephone conference. The Tribunal determined that the requirements of Rule 24(1) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondent upon the representations of the Applicant and the material before the Tribunal.
6. The Applicant asked for the eviction order to be granted so that he can sell the Property. The Applicant informed the Tribunal that he was prepared to allow the period of three months requested on behalf of the Respondent, and asked that the eviction order allow eviction to take place from 1st April 2021. The Applicant said he would then market the Property for sale.

Findings in Fact

7.
 - (i) The Applicant is the joint-proprietor of the Property which is registered in the Land Register for Scotland under Title Number ANG41007.
 - (ii) The co-proprietor of the Property has consented to the Applicant making this application.
 - (iii) The parties entered into a private residential tenancy agreement in respect of the Property commencing on 1st March 2019.
 - (iv) The Applicant intends to sell the Property.
 - (v) Notice to Leave has been served upon the Respondent.

Reasons for Decision

8. Ground 1 of Schedule 3 of the Act provides that it is an eviction ground that the landlord intends to sell the let property. The Tribunal must find the ground applies if the landlord is entitled to sell the let property and 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. The Tribunal is satisfied that Ground 1 applies.
9. The Tribunal is satisfied that the necessary Notice to Leave has been correctly issued to the Respondent in terms of the Act.
10. In terms of section 51(1) of the Act, the Tribunal must issue an eviction order in the circumstances.

Decision

11. An eviction order in respect of the Property is granted against the Respondent. The order is not to be executed prior to 12 noon on 1st April 2021.

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

— 10th December 2020
Date