



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

Reference number: FTS/HPC/EV/21/2526

Order granted on 27 January 2022 in absence of the Respondent

Property: 152 Scaraway Street, Glasgow, G22 7HE

Parties:

Fiona McCulloch and Adam Leon McCulloch, residing at 595 Shields Road, Pollockshields, Glasgow, G41 2RW (“the Applicants”)

Erin Sexton, residing at 152 Scaraway Street, Glasgow, G22 7HE (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

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 part 1 of schedule 3 to the 2016 Act.

Background

The Applicants seek recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicants lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to leave served on 12 April 2021, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicants are the heritable proprietors of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 10.00am on 27 January 2022. Mrs Fiona McCulloch represented both applicants. The hearing was delayed to allow sufficient time for the respondent to participate, but there was no appearance by or on behalf of the respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicants and the Respondent entered into a tenancy Agreement for the Property dated December 2016. On 13/04/2019 the applicants and respondent entered into a private residential tenancy agreement.
2. The rent in terms of the Tenancy Agreement was £460 per month.
3. On 12 April 2021 the applicants served a notice to leave on the respondent. The applicants are joint heritable proprietors of the property and want to sell the property.
4. On 9 April 2021 the applicants instructed estate agents to market the property for sale. On 24 August 2021 the applicants instructed a single survey report. On 13 October 2021, the applicants submitted an application to the tribunal.
5. The Applicants seek recovery of possession of the Property in terms Ground 1 of part 1 of schedule 3 to the 2016 Act. On the facts as we find them to be, the applicants
 - (a) are entitled to sell the let property,
 - (b) intend to sell the property for market value within 3 months of the tenant ceasing to occupy it, and
 - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.
6. The respondent offers no resistance to this application. Sheriff Officers served notice of this hearing on the respondents on 22 December 2021.
7. It is not argued 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

8. 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 Ground 1 of part 1 of schedule 3 to the 2016 Act is established. The respondent offers no defence to the application. 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 part 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.

Paul Doyle

27 January 2022