



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 (Act)

Chamber Ref: FTS/HPC/EV/21/0919

Re: Property at 59 Parkhead Crescent, West Calder, EH55 8AX (“the Property”)

Parties:

Mrs Margaret Stewart, Pennyghael, Main Street, East Whitburn, EH47 0JB (“the Applicant”)

Miss Lisa McIver, Mr Ben Harman, 59 Parkhead Crescent, West Calder, EH55 8AX; 59 Parkhead Crescent, West Calder, EH55 8AX (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.

Background

This is an application under Rule 109 and section 51(1) of the Act in respect of the Applicants’ intention to live in the Property and for eviction and recovery of possession on Ground 1 of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application dated 12 April 2021;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 16 December 2019;
3. Letters to Respondent from Applicant of various dates chasing rent arrears;
4. Notice to Leave dated 6 October 2020 and served by Sherriff Officers on 7 October 2020;
5. Section 11 Notice to Local Authority;

6. Email dated 12 April 2021 to Local Authority serving Section 11 Notice;
7. Email from Brown and Co dated 5 October 2020 confirming their instruction to market and sell the Property;
8. Sheriff Officer Certificate of Service of Tribunal CMD Notification on Respondent dated 7 May 2021.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 4 June 2021. The Applicant participated and represented herself. The Respondent initially did not participate and was not represented.

The Tribunal had delayed the start of the CMD to see if the Respondent would participate.

The Applicant informed the Tribunal that she planned to retire, the Respondent was in significant rent arrears (£6,412.00 as at 16 May 2021) and as such she had decided to market and sell the Property. She had produced evidence of the instruction of agents to market and sell the Property.

The Applicant invited the Tribunal to grant the order at this stage and to find that it was reasonable to do so.

The First Named Respondent dialled in belatedly and informed the Tribunal that she agreed to the order being granted.

Having heard from the Parties the Tribunal had regard to the terms of Ground 1:

Landlord intends to sell

1(1) It is an eviction ground that the landlord intends to sell the let property.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—

(a) is entitled to sell the let property,

(b) 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, and

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

The Tribunal then considered the documentary and oral evidence it had received from the Applicant and in so far as material made the following findings in fact:

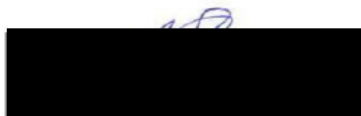
1. The Parties let the subjects under a PRTA commencing 16 December 2019;
2. The Applicant is the owner of the Property and intends to sell it or at least put it up for sale within 3 months of the Respondent ceasing to occupy it;
3. Notice to Leave had been served on the Respondent by Sherriff Officers on 7 October 2020;
4. The Applicant has engaged Brown and Co on 5 October 2020 to market and sell the Property ;
5. Section 11 notification had been served on the local authority on 12 April 2021;
6. The Applicant wishes to retire and the Respondent is in significant rental arrears (£6,412.00 as at 16 May 2021) that necessitate the sale of the Property;
7. The Applicant's wishes to market and sell the Property with vacant possession;
8. The Applicant needs access and vacant possession of the Property to prepare it for sale;
9. The Respondent agrees to the order being granted;
10. It is reasonable to issue an eviction order on account of these facts.

The Tribunal considered all of the evidence and submissions. The Tribunal was satisfied that Ground 1 had been established on the evidence before it and that the procedure was fair. The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought.

The Tribunal consider the circumstances of the Applicant, the Respondent's position and accepted that it was reasonable on account of the established facts to grant the application for eviction and recovery of possession.

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.



Alan Strain
Legal Member/Chair

4 June 2021

Date