



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/21/1264

Property : Flat 0/2, 201 Hollybrook Street, Glasgow G42 8SS (“Property”)

Parties:

Mohammed Jamil, 37 Kinghouse Avenue, Glasgow G44 4JN (“Applicant”)

Letsbwise Glasgow Ltd, 217 Paisley Road West, Glasgow G51 1NE (“Applicant's Representative”)

Shehraz Mehmood, Flat 0/2, 201 Hollybrook Street, Glasgow G42 8SS (“Respondent”)

Tribunal Members:

**Joan Devine (Legal Member)
Mary Lyden (Ordinary Member)**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined that an order for possession should be made.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Private Residential Tenancy Agreement dated 5 October 2018; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 6 October 2020 ("Notice to Leave"); certificate of service from Sheriff Officers in respect of service of the Notice to Leave on the Respondent on 6 October 2020; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 23 August 2021; copy letter from Strata dated 25 May 2021 stating that they were marketing the Property and sheriff officer's execution of service certifying service of the Application on 25 October 2021.

Case Management Discussion

A case management discussion took place before the Tribunal on 29 November 2021 by teleconference. The Tribunal was advised that the Respondents name was Shehraz Mehmood and had been incorrectly notes as Mehmood Shehraz.

Mahmood Ullah of the Applicant's Representative was in attendance. the Respondent was represented by Holly Sloey of Govan Law Centre.

Mr Ullah told the Tribunal that the Applicant had a buy to let mortgage over the Property which had come to an end. He required to sell the Property to repay the lender. He said that the Applicant could not re-mortgage the Property for a number of reasons including his age. He said that the Applicant was 70 plus years old. He said that Strata had been instructed to market the Property but marketing materials could not be prepared as the Respondent would not allow access.

Miss Sloey told the Tribunal that the Respondent wished to leave the Property due to disrepair. He had arranged alternative accommodation with Govan Housing Association. He was content for an order for possession to be made but wished enforcement to be delayed for 6 weeks. She told the Tribunal that she had discussed matters with Mr Ullah and agreement had been reached on this point. Mr Ullah confirmed that was the case.

The Tribunal noted that title to the Property was held by the Applicant and he was therefore entitled to sell the Property.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Private Residential Tenancy Agreement which commenced on 8 October 2018 ("Tenancy Agreement").
2. The Notice to Leave was served by sheriff Officer on 6 October 2020. It stated that an application for an eviction order would not be submitted to the Tribunal before 7 April 2021.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 23 August 2021.
4. Notice of the date of the case management discussion had been given to the Respondent on 25 October 2021.
5. The Applicant intends to sell the Property.

6. The Applicant is entitled to sell the Property.
7. The Applicant intends to market the Property within 3 months of the Respondent ceasing to occupy.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act.

In terms of section 51 of the Act, the First-tier 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.

In the Application the Applicant stated that he sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell.

Ground 1 (as amended by the Coronavirus (Scotland) Act 2020) states:

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

The Applicant held title to the Property and therefore was entitled to sell. The Applicant produced a letter from Strata dated 25 May 2021 in which they stated that they were instructed to market the Property. The Applicant's Representative told the Tribunal that he intended to market and sell the Property as soon as he had possession.

The Respondent wished to leave the Property and had arranged alternative accommodation. Parties had agreed that enforcement of the order for possession should be delayed for 6 weeks.

The ground for eviction had been established. In the circumstances it was reasonable to grant an order for eviction and to delay execution of the order in terms of Regulation 16A(d) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Decision

The Tribunal grants an order for possession of the Property.

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.



**Joan Devine
Legal Member**

Date : 29 November 2021