



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) Act 2016

Chamber Ref: FTS/HPC/EV/20/2218

Re: Property at 36 Grangeburn Road, Grangemouth, FK3 9AA (“the Property”)

Parties:

Ms Fiona Shearer, 10 The Square, Ashfield, Dunblane, FK15 0JN (“the applicant”)

Mr William Peebles, 36 Grangeburn Road, Grangemouth, FK3 9AA (“the respondent”)

Tribunal:

David Preston (Legal Member) (“the tribunal”)

Decision:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction in favour of the applicant.

Background:

1. By application dated 19 October 2020 the applicant applied for an order for eviction and possession of the property on the basis of Ground 1 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.
2. The relevant papers before the tribunal comprised:
 - a. Private Residential Tenancy Agreement dated 6 November 2019;
 - b. Terms of Engagement and Estate Agency Agreement with RGM solicitors and letting agents dated 5 and 13 October 2020.
 - c. Notice to Leave dated 8 February 2020 with an undated extension Notice;
 - d. Notice under section 11 of the Homelessness etc (Scotland) Act 2003;
 - e. Title Information relative to the property – STG794;
 - f. emails and texts between the parties.

3. By Decision dated 26 November 2020, a Convener of HPC having delegated power for the purpose, referred the application under rule 9 of the Rules to the tribunal.

Case Management Discussion

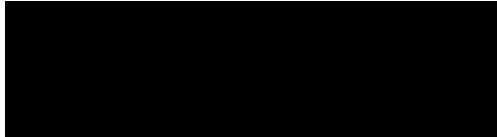
4. On 13 January 2021 a CMD was convened by telephone at 10.00am in terms of the Notice of Intimation. Ms Rebecca Walker, of Ledingham Chalmers LLP, on behalf of the applicant and the respondent attended.
5. The respondent said that he would be happy to leave the property but did not have anywhere else to go. He was looking to be accommodated by the Council and had applied on a weekly basis for housing but had been told that he was not at the top of the waiting list. He had been told that the closer he came to being evicted the better chance he would have. He said that the landlord had told him that she would wait until the pandemic situation had sorted itself out before any eviction action was taken.
6. Ms Walker advised that the applicant was disabled and had to make modifications to her own property which required her to realise her assets, including the property which had to be sold to allow her to pay for the modifications. She had given the relevant notice under the 2016 Act and had served all relevant papers. The applicant accordingly sought an order for eviction.

Reasons for Decision:

7. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
8. The tribunal was satisfied that the applicant is the owner of the property and is accordingly entitled to sell it as evidenced by the Title Information. The applicant intends to sell the property for market value as evidenced by the Letter of Engagement with RGM dated five and 13 October 2020.
9. The tribunal considered the terms of the Coronavirus (Scotland) Act 2020 but was satisfied that the Notice to Leave had been served on the respondents prior to the coming into force of that Act and had no effect on this application.
10. The applicant had provided the respondent with due notice and indeed had extended the period of notice to 22 September 2020 in view of the coronavirus restrictions.
11. Accordingly, in terms of Paragraph 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016, the tribunal is required to grant the order for eviction.

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.



Legal Member/Chair

14 January 2021

Date