



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/22/0517

Re: Property at 67 Castle Court, 44 Broomburn Drive, Glasgow, G77 5JH (“the Property”)

Parties:

Ms Sophia Rafique, Flat 1, 8 Fordham Close, London, EN4 9AJ (“the Applicant”)

Mrs Lai Ki Soon, Mr Fuk Tak Soon, 67 Castle Court, 44 Broomburn Drive, Glasgow, G77 5JH (“the Respondents”)

Tribunal Members:

Neil Kinnear (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This was an application for an eviction order dated 10th March 2022 and brought in terms of Rule 109 (Application for an eviction order) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant sought an eviction order in relation to the Property against the Respondents, and provided with her application copies of the notice to leave, section 11 notice, relevant executions of service, and explanation of her circumstances.

All of these documents and forms had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, the *Coronavirus (Scotland) Act 2020*, and the *Coronavirus (Scotland) Act 2020 (Eviction from Dwelling-houses)(Notice Periods) Modification Regulations 2020*, and the

procedures set out in those Acts and that Regulation appeared to have been correctly followed and applied.

The Respondents had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 27th April 2022, and the Tribunal was provided with the executions of service.

Case Management Discussion

A Case Management Discussion was held at 14:00 on 7th June 2022 by Tele-Conference. The Applicant participated, and was not represented. The Respondents did not participate, nor were they represented. The Respondents had not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant invited the Tribunal with reference to the application and papers to grant the order sought on ground 4 of Schedule 3 to the *Private Housing (Tenancies) (Scotland) Act 2016*.

The notice to leave dated 21st October 2021 relied on ground 4 of Schedule 3 to the *Private Housing (Tenancies) (Scotland) Act 2016*. It narrated that the Applicant intends to live in the Let Property.

The Applicant explained that she had been residing in London for work-related reasons, but was now permanently returning to work from Glasgow so that she could see her four children more often.

In particular, her youngest child was in his final year at school and had found the separation from his mother difficult. He would stay with his mother if the Applicant resumed occupation of the Property. His two older sisters were both at university, and would be able to return home to stay with their family at weekends if the Applicant resumed occupation of the Property. One of the two was finishing university and would move back in to the family home thereafter for a period.

Statement of Reasons

In terms of Section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* ("the Act"), the 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.

Para 4 of Schedule 3 to the Act provides that it is an eviction ground that the landlord intends to live in the property. The Tribunal may find that this ground applies if (1) the landlord intends to occupy the let property as the landlord's only or principal home for

at least 3 months, and (2) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.

The Tribunal was satisfied that ground 4 had been established. The Applicant confirmed that she intends to occupy the let property as her only home for the foreseeable future, and for at least 3 months, and *prima facie* the Applicant had made out that it was reasonable to issue an eviction order on account of that fact.

In the case of *City of Glasgow District Council v Erhaiganoma* 1993 SCLR 592, The Inner House of the Court of Session stated at page 594 that “Where *prima facie* reasonableness has been made out, we think that it is then for the tenant to put circumstances before the court to show otherwise.”.

In this application, the Respondents had not responded to this application advancing any arguments that it was not reasonable to issue an eviction order, and had not participated in the Case Management Discussion. The Respondents had put forward no circumstances to show that it would not be reasonable for the Tribunal to issue an eviction order.

In those circumstances, having considered the whole circumstances, the Tribunal was satisfied that it was reasonable to issue an eviction order.

Decision

In these circumstances, the Tribunal made an eviction order against the Respondents in this application.

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.

N Kinnear

Legal Member/Chair

Date 7th June 2022