



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/23/1268

Re: Property at 47 1/1 Glenshiel Avenue, Paisley, Renfrewshire, PA2 7PX (“the Property”)

Parties:

Mr Lakhvir Singh Diwana, 2 Milwood Crescent, Uddingston, Glasgow, G71 7UL (“the Applicant”)

Mr Damon Chu, 47 1/1 Glenshiel Avenue, Paisley, Renfrewshire, PA2 7EX (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member) and Elizabeth Williams (Ordinary Member)

1. Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the eviction of the Respondent from the property at 47 1/1 Glenshiel Avenue Paisley Renfrewshire PA2 7PX be made on ground 1 of schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (landlord intends to sell the property) and it is reasonable in all of the circumstances that the eviction be granted.

Background

2. This was a case management discussion (‘CMD’) in connection with an Application for eviction in terms of rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Procedure Regulations 2016, (‘the rules’) on ground 1 (landlord wishes to sell) of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (‘the Act’). The Applicant was represented by Mr Jeffrey Livingstone of Landlord Specialist Services Scotland. The Respondent did not attend and was not represented.

3. The Tribunal had before it the following copy documents:

- Application dated 19 April 2023.
- Land certificate.
- Landlord registration details.
- Private Residential Tenancy Agreement.
- Notice to leave dated 20 April 2023.
- Email serving notice to leave dated 19 January 2023.
- Evidence of service of notice to leave.
- S11 notice and proof of service.
- Email from AB Property dated 12 June 2023 re sale of the property.
- Execution of service by sheriff officers dated 4 August 2023.

4. Preliminary matters

The Respondent did not attend the CMD and was not represented. The Tribunal had sight of the execution of service by sheriff officers dated 4 August 2023 and was satisfied that he had received appropriate notice in terms of rule 24. The Tribunal was satisfied that it was fair to proceed in his absence in terms of rule 29.

5. Discussion

Mr Livingstone confirmed that he served the notice to leave by depositing it in the Respondent's letter box on 19 January 2023. He had attended the property to carry out an inspection at the Applicant's request. The Applicant has not had access to the property since February 2022. The Respondent did not answer the door but there were windows open despite it being a cold day, which suggested he was either at home or had been there very recently. Mr Livingstone explained that because the Applicant has been unable to inspect the property, ground 1 was used for the notice as the condition of the property is unknown. The owner wishes to sell the property due to long term ill health and it is likely that some upgrading will be required before it can go on the market. Ground 3 was not used as no evidence could be provided of what refurbishment works were needed due to a lack of access. He advised that the gas safety certificate is due for renewal and the Applicant has been unable to gain access for this. As far as the Respondent's circumstances are concerned, he lives in the property alone and has no known vulnerabilities. There were some arrears of rent in 2022 but they have been cleared.

7. Findings in fact

- The Applicant is the registered landlord of the property.
- The Applicant has the consent of the owner Ms Jagmit Kaur Bajwa to let the property and act as landlord.

- The parties entered into a private residential tenancy for let of the property from 1 March 2019.
- The agreed monthly rent was £345.
- The Applicant served the Respondent with a valid notice to leave on 19 January 2023.
- The notice to leave expired on 13 April 2023.
- The Respondent has not allowed the Applicant access to the property since February 2022.
- The owner is in poor health and the Applicant requires to sell the property on her behalf.

7. Reasons

This is an undefended eviction Application. The Tribunal was satisfied that the Respondent had received a valid notice to leave with the correct 84 days' notice, given the notice was deposited at the property on 19 January 2023. The tribunal was satisfied that the notice to leave gave notice that the Applicant requires to sell the property. The Applicant has produced evidence of the intention to sell. The Tribunal was satisfied that the procedure has been fair. The Tribunal was satisfied that it is reasonable in all of the circumstances to grant the eviction given the owner is in ill health and the Respondent has failed to allow access to allow the property to be inspected.

Lesley Ward

Lesley Anne Ward
Legal Member

6 September 2023
Date

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.