



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/22/2921

Re: Property at Flat 1/3 40 Low Waters Road, Hamilton, ML3 7NW (“the Property”)

Parties:

Mr Colin Wilkie, 3 Findochty Place, Forth, Glasgow, G33 5DE (“the Applicant”)

Ms Sarah Semple, Flat 1/3 40 Low Waters Road, Hamilton, ML3 7NW (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondent from the property.
2. By decision dated 26 October 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. The Notice of Acceptance was intimated to the Applicant’s representative on 27 October 2022. The Tribunal intimated the application to the parties by letter of 28 November 2022 and advised them of the date, time and conference call details of today’s case management discussion. In that letter, the parties were also told that they required to take part in the discussion and were informed that

the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 19 December 2022. No written representations were received by the Tribunal.

The case management discussion (“CMD”)

4. The case management discussion took place by conference call. The Applicant was represented by Ms Stewart and the Respondent participated personally, accompanied by Mr Bird, supporter. The Respondent lives in the property with her 30 year old son. The Respondent is not opposed to the application. When she received the Notice to Leave, she contacted the local authority to find alternative accommodation. The local authority has not made an offer of alternative accommodation and she is still waiting to be rehoused. The Respondent is due to retire and has not looked for alternative accommodation in the private market because she cannot afford a private let. The Applicant's representative advised that the Applicant no longer wishes to let the property because mortgage rates have increased and there is now a shortfall between his mortgage payment and the rental income. The Applicant has already obtained a home report. He previously advertised the property for sale, but withdrew the property from the market pending this application. The Applicant's representative submitted that it was reasonable in all of the circumstances to grant the order for eviction.
5. The Tribunal adjourned briefly to allow the member to discuss matters in light of what was said at the CMD. When the Tribunal reconvened, Mr Bird indicated that if the Tribunal was of a mind to grant the eviction order, the Respondent sought an extension of time before the order is to be executed. The Applicant's representative indicated that the Applicant is likely to be opposed to that application, although if the Respondent has not been offered alternative accommodation, she indicated that the Applicant may allow further time to allow the Respondent to be rehoused. The Tribunal adjourned again briefly to consider the new matter raised. The CMD was reconvened and the Tribunal advised the parties that it was satisfied that it was reasonable to grant the order for eviction and that order was granted today. The Tribunal determined that the order is not to be executed before 10 March 2023.

Findings in Fact

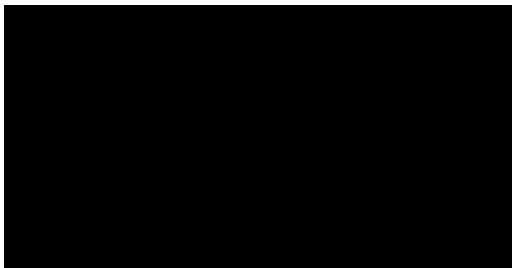
6. The parties entered into a private residential tenancy which commenced 16 September 2019.
7. The Applicant's representative served the Notice to Leave on the Respondent by email on 17 December 2021.
8. The Applicant intends to sell the property.

Reason for Decision

9. The Tribunal proceeded on the basis of the written documents which were before it. The Applicant's representative invited the Tribunal to make the Order sought. The Applicant relied upon Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The Applicant intends to sell the property. The Respondent did not oppose the application. The Tribunal was satisfied that it was reasonable to grant the order evicting the Respondent from the property. Given the efforts the Respondent has already made to find alternative accommodation, the Tribunal considered it reasonable for her to be afforded an additional two weeks beyond the normal timescale for execution of the order.

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

23 January 2023
Date