



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/20/2649

Re: Property at 24 Hawthorn Road, Prestonpans, EH32 9QF (“the Property”)

Parties:

Mr Sam Knox, 50 Nethershot Road, Prestonpans, East Lothian, EH32 9AP (“the Applicant”)

Mrs Nicola Anderson, 24 Hawthorn Road, Prestonpans, EH32 9QF (“the Respondent”)

Tribunal Members:

Jim Bauld (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted

Background

1. Reference is made to the Notes issued after the previous case management discussions which took place on 23rd April 2021 and 2 July 2021
2. The adjourned case management discussion took place on 20 August 2021

Findings in fact

3. The applicant and respondent as respectively the landlord and tenant entered into a tenancy of the property which commenced on 28 December 2017.

4. The tenancy was a private residential tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016. ("the Act")
5. The agreed monthly rental was £525.
6. On 29 June 2020 the applicant served upon the tenant a Notice to Leave as required by the Act. The Notice was served by email upon the respondents and became effective on 2 January 2021
7. The notice informed the respondents that the landlord wished to seek recovery of possession using the provisions of the Act.
8. The notice was correctly drafted and gave appropriate periods of notice as required by law.
9. The notice set out a ground contained within schedule 3 of the Act, namely ground 1 that the landlord intended to sell the let property

Reasons for the decision

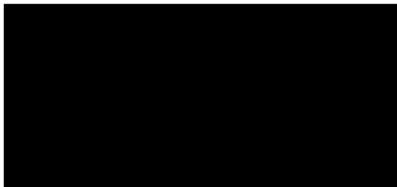
10. The order for possession was sought by the landlord on a ground specified in the act and properly narrated in the notice served upon the tenant.
11. The tribunal was satisfied that the notice had been served in accordance with the terms of the act and that the landlord was entitled to seek recovery of possession based upon that ground.
12. The landlord had provided evidence to the tribunal confirming his ownership of the property as requested after the initial case management discussion.
13. The tribunal accepted the unchallenged evidence of the landlord that he intends to sell the property. The tribunal accepted his evidence that the tenant does not oppose the granting of the order. The tribunal noted the landlords position that he is in no rush to enforce any order and will allow time for the tenant to the move voluntarily.
14. The ground for eviction was accordingly established.
15. The ground for eviction under which this application was made is the ground contained in paragraph 1 of schedule 3 of the 2016 Act. The ground is that the that the landlord intends to sell the let property. When the 2016 Act was originally passed, that ground of eviction was mandatory. The tribunal was required by law to grant the eviction order if satisfied that the ground was established.
16. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on this ground can only be granted if the Tribunal

is satisfied that it is reasonable to issue an eviction order on account of that fact

17. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties
18. The tribunal finds that it is reasonable to grant the order.
19. The tribunal accepts that the landlord is entitled to sell the property and wishes to do so. The tribunal accepts that the tenant is not opposed to the sale of the property and is willing to leave the property once she has obtained alternative accommodation
20. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that the final order should be made at the CMD

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.



03/09/2021

Legal Member/Chair

Date