



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/23/2045

Re: Property at 16/7 Dickson Street, Edinburgh, EH6 8RN (“the Property”)

Parties:

Mr Oluwaseun Olushanu, 3 Russell Close, England, CM8 1UH (“the Applicant”)

Mr Szymon Garbowski, 16/7 2F2, Dickson Street, Edinburgh, EH6 8RN (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at 16/7 2F2, Dickson Street, Edinburgh, EH6 8RN under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings furth and from the Property and to make the same void and redd that the Applicant or others in his name may enter thereon and peaceably possess and enjoy the same.

Background

1. This is an application for eviction for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The applicant founds upon Ground 1 (Landlord intends to sell the Property) of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

2. The application was accompanied by a private residential tenancy with a start date of 1 March 2023, a Notice to Leave and email to the Respondent dated 15 March 2023, a Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with email to Edinburgh City Council dated 16 June 2023 and a sales quotation from Aberdeen Considine dated 21 June 2023.
3. On 18 October 2023 Ms McGourt from Granton Information Centre on behalf of the Respondent emailed the Tribunal to advise the Respondent did not wish to oppose the application. On 18 October 2023 Ms Donnelly from TC Young, solicitors on behalf of the Applicant also lodged email correspondence between the Applicant and Ms McGourt and further emails between the Applicant and an Estate Agent exploring the possibility of either the Respondent or an investor purchasing the Property.

Case Management Discussion

4. A Case Management Discussion proceeded on 19 October 2023. Miss Donnelly from TC Young, solicitors appeared for the Applicant. Ms McGourt from Granton Information Centre appeared for the Respondent.
5. Miss Donnelly submitted the Respondent no longer opposed the application.
6. Ms McGourt confirmed the Respondent did not wish to oppose the application. She explained that the Property was not an attractive investment for an investor due to the low level of rent and the restrictions of the rent cap. The Tribunal noted the email correspondence which showed the Applicant and Ms McGourt had explored the possibility of the Respondent or an investor buying the Property. Ms McGourt submitted that her client was 42 years old, lived alone at the Property and had access to his child. She further submitted he was in full time employment and depending on his wages which fluctuated, he was at times in receipt of Universal Credit. He was exploring the possibility of getting social housing.
7. In relation to reasonableness, Miss Donnelly referred to the application and confirmed her client had to sell the Property as the mortgage rate increase made it no longer financially for him to keep the Property. He could not raise the rent to meet the mortgage. The monthly rent was £595 but his mortgage was £895 per month. Further he had two children to support.
8. After a short adjournment the Tribunal granted an Order to evict. They considered that it was reasonable to do so. The application was not opposed. The Respondent had taken active steps to try to secure social housing and had sought assistance from Granton Information Centre. Parties had made efforts to explore whether the Respondent or an investor would buy the Property, which unfortunately came to nothing. It was clear the Applicant's monthly outgoings far exceeded the monthly rent which even if increased, with the current rent cap in force, would still not make it financially viable for him to keep the Property. The Tribunal was satisfied that the Applicant was

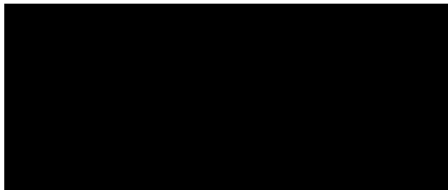
entitled to sell the Property and sell it or put it up for sale within 3 months of the Respondent leaving. The Applicant had produced a sales quotation from Aberdeen Considine. The Tribunal was satisfied that Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act had been met.

Decision

9. The Tribunal granted an Order to evict. The decision of the Tribunal was unanimous.

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.



21 October 2023

Legal Chair

Date