



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/23/2160

Re: Property at 18 Aline Court, Glenrothes, KY6 2BX (“the Property”)

Parties:

Mrs Janet Lorna Robertson, 6 McInnes Road, Markinch, Glenrothes, KY7 6BA (“the Applicant”)

Miss Linsey Bryson, 18 Aline Court, Glenrothes, KY6 2BX (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member) and Jane Heppenstall (Ordinary Member)

1. Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that and order for the eviction of the Respondent from the Property be made on the basis that the Applicant wishes to sell the property and it is reasonable in all of the circumstances that the eviction order be granted.

2. Background

This was a case management discussion (‘CMD’) in connection with an application for recovery of possession in terms of section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (‘the Act’) and rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, (‘the rules’). The application was on ground 1 (landlord wishes to sell). The Applicant attended and her husband Mr William Robertson attended as her representative.

3. Preliminary matters

- (1) The Tribunal had written to the Applicant on 7 September 2023 asking for a copy of the section 11 notice on the local authority and proof of service of this.**

This has not been provided yet. This is a legal requirement in terms of section 56 of the Act. The Applicant stated that the local authority was aware of the application and had been in correspondence with the Respondent about the legal requirements. The Applicant thought this was therefore sufficient.

- (2) The Tribunal noted that there were two tenants on the tenancy agreement dated 1 May 2020. The Applicant clarified that a second tenancy agreement was drawn up and signed on 5 May 2020 with the Respondent as the sole tenant. This had been lodged with the Tribunal and this was the agreement that was being relied upon. The Respondent confirmed that the second tenancy agreement with her as the sole tenant had been drawn up and signed at her request.
- (3) The Applicant clarified that the tenancy agreement was not in the form of the Model Tenancy Agreement and it was silent on the method of service of documents. The Applicant rented the property to the Respondent as she was her nephew's partner at the time. The relationship broke down shortly thereafter. The notice to leave dated 27 March 2023 had been served on the Respondent by email on that date. The Respondent confirmed that she had received the email with notice to leave on 27 March 2023. There had been some discussion by the parties via Facebook messenger around 12 March 2023 and an email address had been provided by the Respondent so that the notice could be sent. The Respondent confirmed that she was content with service by email.
- (4) The Respondent is not opposed to the eviction being granted. Her application for alternative housing with the council cannot be progressed until the eviction is granted.

4. The Tribunal adjourned to enable the Applicant to provide a section 11 notice and proof of service as required by section 56 of the Act.

5. Discussion

The Applicant has provided the correct section 11 notice and proof of service. The Applicant plans to sell the property as part of retirement planning as soon as she has vacant possession. There are arrears of around £2000.

The property no longer meets the Respondent's needs as it is a 4 bedroom property and she only requires 2 bedrooms for herself and her 21 year old son. The Respondent is in receipt of Universal Credit but they only pay a proportion of the rent due to the size of the property. The Respondent acknowledged there were some rent arrears but she thought Universal Credit may pay something towards them.

6. Finding in fact

- The Applicant is the owner and registered landlord of the property.
- The Applicant let the property to the Respondent on 5 May 2020.

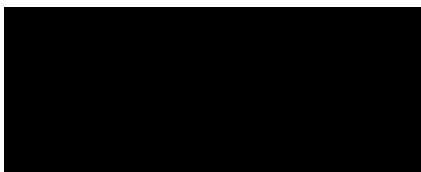
- A private residential tenancy was constituted on 5 May 2020 although a model tenancy agreement was not used.
- The Applicant wishes to sell the property and a home report was prepared in October 2023 for this purpose.
- The Applicant served the Respondent with a valid notice to leave by email on 27 March 2023.
- The Respondent is no longer able to afford the rent for the property as it is too big for her current needs and there is a shortfall with her Universal Credit.
- The Respondent has sought help with rehousing from her local authority.
- They will progress the housing application if an eviction order is granted.

7. Reasons

This was an undefended application for eviction. The Tribunal was satisfied it had sufficient information to enable it to make a decision and the procedure has been fair. The Tribunal was satisfied that a valid notice to leave had been served by an agreed method of service and the correct notice period of 87 days (84 days plus 3 days) had been given. The eviction ground has been established as the Applicant wishes to sell and she has produced a recent home report. The Applicant has also produced a valid section 11 notice and proof of service on the local authority. Turning to the reasonableness of the eviction, the Respondent does not object to the eviction. Indeed the eviction will enable her to progress her application for rehousing as she is no longer able to afford the rent for a private let due to her personal circumstances. The Tribunal was satisfied it is reasonable in all of the circumstances for the eviction to be granted.

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.



Lesley Anne Ward

14 March 2024

Legal Member/Chair

Date