



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/22/3095

Re: Property at 5 Udston Terrace, Hamilton, ML3 9HU (“the Property”)

Parties:

Mr Abdul Majid, 35 Royal Gardens, Bothwell, G71 8SY (“the Applicant”)

Mr Christopher Alexander McPhee, 5 Udston Terrace, Hamilton, ML3 9HU (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 28th August 2022. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of the Private Housing (Tenancies) Act 2016.
2. On 14th December 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 14th February 2022 at 10am by teleconferencing. The letter also requested all written representations be submitted by 4th January 2023.

3. On 16th December 2022, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 16th December 2022.

The Case Management Discussion

4. A CMD was held on 14th February 2022 at 10am by teleconferencing. The Applicant was represented by Ms Joanne Smith, Excel Lettings. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the hearing.
5. Ms Smith told the Tribunal that the Respondent is still in the Property. He last contacted in May 2022 when he had received the Notice to Leave. He told the letting agents that he had been advised by his local council that he would be rehoused once an order for eviction had been granted by the Housing and Property Chamber. At that time the Respondent stopped paying his rent and has not paid his rent since.
6. Ms Smith said that the Applicant has 12 properties. He is looking to retire and so sell some of his stock. The long term position is that he will eventually sell all of his properties. However, he is starting with three including this property. The Applicant is aware that the market has changed since he started this process but he still wishes to sell these three properties. His stock is mixed. He has chosen these three properties as he will make more money from selling them than the will received in rent as the yield is lower than on the other properties he owns. Ms Smith confirmed that this is not the Applicant's only income, he works in retail too. She said that he cannot get access for a valuation of the Property at this point as there has been no communication from the Respondent.
7. Ms Smith said that the Respondent is in his forties and lives in the Property on his own. He is believed to be in employment and is not known to have any significant medical conditions. Ms Smith said that her company had contacted the Respondent to offer assistance to look for other properties but he has not communicated with them since May 2022.

Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 6th August 2020.
9. The Applicant intends to sell the Property. He has taken the steps to have the Property valued and has instructed an estate agent noting his intention to sell.
10. The Applicant owns 12 properties and is in the process of trying to sell 3 including this one.
11. The Respondent lives on his own with no dependents or health issues.

12. The Respondent contacted his letting agent when he received the Notice to Leave in May 2022 to say that he had been informed by his local council that he would be rehoused once an order for eviction was granted by the Housing and Property Chamber. Since that point he has stopped paying his rent.

13. It is reasonable to grant an order for eviction.

Decision

14. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant. There were no grounds of reasonableness arising which would prevent an order being 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.

14th February 2023

Legal Member/Chair

Date