



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/23/1137

Re: Property at 23 Winton Court, Ardrossan, Ayrshire, KA22 8HZ (“the Property”)

Parties:

Miss Moira Rugg, 24 Witches Linn, Ardrossan, Ayrshire, KA22 8NP (“the Applicant”)

Miss Callan Wilson, 23 Winton Court, Ardrossan, Ayrshire, KA22 8HZ (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Helen Barclay (Ordinary Member)

Decision

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 12th April 2023. 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 the Respondent not adhering to ground 1A of the Private Housing (Tenancies) Act 2016.
2. On 28th July 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 25th August 2023 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 18th August 2023.
3. On 2nd August 2023, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 2nd August 2023.

4. A CMD was held on 25th August 2023 at 2pm by teleconferencing. The Applicant was present and represented herself. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD. The Tribunal said that there was insufficient information to proceed on ground 1A. Full information needed to be provided to allow the Tribunal to be able to make a judgement under ground 1A. The Applicant was frustrated that the Tribunal was not able to make a decision today due to lack of information. The Tribunal explained that having all of the information would not have guaranteed that the Tribunal would have been able to make a decision. The Tribunal noted that the Applicant is entitled to obtain advice and representation if she wished to do so. The Applicant is a member of the Scottish Association of Landlords (“SAL”) and will seek advice from them. She will seek to find out if she can consider an amendment to ground 1 should she consider that to be appropriate. The Tribunal noted that ground 1A requires a lot of financial information but entitles the Applicant, if granted, to an order after the appeal period has expired. Ground 1 requires less information but the order is not sent until 6 months after the date of the CMD under the Cost of Living (Tenant Protection)(Scotland) Act 2022. The Tribunal cannot give any advice of what the Applicant is entitled to do or what is the best option. She will find this information from SAL. The Applicant said that she was currently homeless. She is living with her mother and her 23 year old son. She needs to sell this property to allow her to obtain a home for herself and her son. The Applicant owns another property which she obtained an order for eviction from the Housing and Property Chamber on 23rd March 2023. This property is currently on sale. The Applicant intends to use funds from that property and this property to obtain a new property for her and her son. The Applicant said that there are rent arrears on the Property only amount to £322 which is less than one months rent. The Tribunal continued the CMD to a new date for all the information to be ingathered and for the Applicant to take advise on this application should she wish to do so. Adjourned to a further case management discussion. A direction for further information was issued.
5. On 5th October 2023, the Applicant emailed the Housing and Property Chamber lodging a response to the direction of 25th August 2023. This included details relating to her own financial hardship causing ground 1A to be necessary.

The Case Management Discussion

6. A CMD was held on 8th December 2023 by teleconferencing. The Applicant was present and represented herself. The Respondent was present and represented herself.
7. The Applicant said that she had nothing further to add. She still living at her mother’s house with her adult son.
8. The Respondent said that she was not in the position to oppose an order being granted. She has contacted the homeless department at her local authority. She needs confirmation that an eviction order has been granted before they will consider rehousing her. She lives in the Property with her three children who

are aged 3, 7 and 8. Her 7 year old daughter is profoundly deaf. The Tribunal asked the Respondent about rent arrears. The Respondent said that her rent is paid by Universal Credit. However, there is a short fall which she has not been able to pay. She said that the arrears were about £500. The Applicant confirmed that the shortfall was £39.72. It has built up over the duration of the tenancy is and now around £500. As this is just over one months rent charge she did not consider it significant enough to pursue. It is not the reason that she has raised the eviction application.

9. The Tribunal was satisfied that the Applicant needed to sell the Property due to financial hardship. The Respondent was not opposed to an order being granted. The Tribunal was content to grant the application for eviction.

Findings and reason for decision

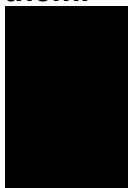
10. A Private Rented Tenancy Agreement commenced 1st November 2020.
11. The Applicant requires to sell the Property due to financial hardship. Documentation was lodged to support this point. She is currently living with her mother and her adult son.
12. The Respondent does not oppose and order being granted. She is looking to be rehoused by her local authority once and order has been granted.
13. There are no issues of reasonableness preventing an order for eviction being granted.

Decision

14. The Tribunal found that ground 1A has been established and granted an order for eviction in favour of the Applicant.

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.



8th December 2023

Legal Member/Chair

Date