



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/23/2775

Re: Property at Milton of Dumbreck Cottage, Dumbreck Estate, Pitmedden, Ellon, AB41 7PL (“the Property”)

Parties:

Aberdeen Endowments Trust, 19 Albert Street, Aberdeen, AB25 1QF (“the Applicants”)

Mr Toby McKillop, Milton of Dumbreck Cottage, Dumbreck Estate, Pitmedden, Ellon, AB41 7PL (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.

Background

1. By application dated 15 August 2023, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The Ground relied on was Ground 1 of Schedule 3 to the Act, namely that the landlord intends to sell the Property.
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 6 September 2019 at a rent of £485 per month, and a Notice to Leave dated 18 May 2023, stating that Ground 1 was the reason for the Applicant seeking an Eviction Order and that an application to the Tribunal would not be made before 13 August 2023. The Applicant also provided a copy of an email from a firm of solicitor estate

agents in Aberdeen, confirming the Applicant's instructions to sell the Property and setting out their Terms of Business.

3. The Applicants stated in the application that they are a charitable trust going through a process of reducing its property portfolio. As owning property no longer best serves the charity. The Applicants wish to sell the Property.
4. On 16 October 2023, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 6 November 2023. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the morning of 21 November 2023. The Applicants were represented by Jane Rattray of Ledingham Chalmers LLP, Aberdeen. The Respondent was not present or represented.
6. The Applicant's representative told the Tribunal that the Applicants are a charitable trust. The purpose of the Trust is to provide educational bursaries for children from deprived backgrounds. They have taken and received investment advice that ownership of rented property does not constitute the best use of funds. They have already sold neighbouring land and have obtained an Eviction Order in relation to another property on that land. Miss Rattray stated that the Respondent lives in the Property on his own and she was not aware of his employment circumstances or of any disabilities that he might have. She understood that he had complained to the Applicants' land agents about the length of time the eviction process was taking and pointed to the fact that any Eviction Order would not be capable of enforcement before 31 March 2024, giving the Respondent reasonable time to seek alternative accommodation.

Reasons for Decision

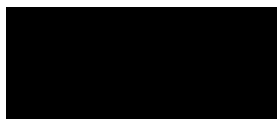
7. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
8. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies. Ground 1 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the landlord intends to sell the let property and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell and intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts. Ground 1 goes on to state that evidence tending to show that the landlord has that intention

includes (for example) a letter of engagement from a solicitor or estate agent concerning the sale, or a recently prepared Home Report.

9. The Tribunal was satisfied from the evidence provided that the Applicant intends to sell the Property. Accordingly, the only matter for the Tribunal was to decide whether it would be reasonable to issue an Eviction Order. The Tribunal noted that the purpose of the Applicants as a Trust is educational and that they have been advised that owning and managing a property portfolio is not the best use of Trust funds. The Tribunal also noted that the Respondent appears to live in the Property on his own and that he had not made any representations for the Tribunal to consider regarding his personal circumstances.
10. Having carefully considered all the evidence before it, and in the absence of any representations to the contrary from the Respondent, the Tribunal decided that it would be reasonable to issue an Eviction Order against the Respondent.
11. The Tribunal's Decision 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.



Legal Member/Chair

21 November 2023
Date