



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)

Chamber Ref: FTS/HPC/EV/23/3296

Re: Property at 22 Crownhill Court, Glenmavis, Airdrie, ML6 0PD (“the Property”)

Parties:

Miss Ashley Harkness, Mr Jordan Perry, 10 Ulverston Terrace, Hamilton, Lanarkshire, ML3 7JH (“the Applicant”)

Miss Danielle Coull, 22 Crownhill Court, Glenmavis, Airdrie, ML6 0PD (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

BACKGROUND

1. By lease dated 14th November 2017 the applicants let the property to the respondent.
2. Prior to the lease being signed an AT5 was served upon and signed by the respondent. The lease is, accordingly a short assured tenancy in terms of the housing (Scotland) Act 1988 (“The 1988 Act”).

3. During July 2023 a notice to quit and a notice in terms of s33 of the 1988 Act were served upon the respondent.
4. A notice in terms of S11 of the Homelessness Etc. (Scotland) Act 2003 was intimidated to the local authority.

THE CASE MANAGEMENT DISCUSSION

5. The Applicants did not participate personally in the case management discussion but were represented by Miss L Blackwood of Looking To Rent, Glasgow. The Respondent participated personally.
6. Miss Blackwood moved the tribunal to grant an eviction order. While the tenancy is a short assured tenancy, and while the necessary notices had been served to bring the tenancy to an end, it was explained also, and had been explained in the application to the Tribunal, that the Applicants wished vacant possession as they intended to sell the Property.
7. On behalf of the Applicants it was explained that they were wishing to sell the property for financial reasons. The rental income from the property is £495.00 per month. This had never been increased from the commencement of the lease. As a result, however, of mortgage rates increasing, factor charges increasing, landlord insurance increasing and the cost of annual safety certificates etc, the landlords were paying out approximately £250.00 per month more than the rental income they were receiving. They were not in a position to continue to do so and wish to sell the Property as a result.
8. It is understood that this is the only rental property owned by the Applicants. They had tried to avoid taking these steps but now feel compelled to do so.
9. The tribunal was advised that all rental payments were up to date and always had been. It was intimated to the tribunal that the Respondent was, in fact, a very good tenant.
10. The Respondent advised that she resided at the home together with her two children aged 9 years and 6 years. Her 6 year old son is currently being assessed for ADHD. Both children attend a local primary school. The Respondent's son does not cope well with change and the Respondent understandably is keen to minimise disruption for him.
11. The respondent, however, has been in contact with Citizens Advice Bureau and the local authority. She has been advised that until she is homeless the local authority will not be able to take steps to provide alternative accommodation for her. Upon further examination it appears that, if an eviction order was granted by the tribunal, the local authority would thereafter, commence the process of providing alternative accommodation. It does not appear that the Respondent will need to be, as a matter of fact, physically homeless before they will consider allocating alternative accommodation to her.

12. The Respondent has engaged with a local housing association but they were unable to assist. The Respondent has considered alternative privately let accommodation but the rents now being charged are prohibitive.
13. The respondent is 28 years of age and is in full time, permanent employment.
14. Upon clarifying with the Respondent whether she was asserting that it was not reasonable for an eviction order to be granted, she intimated to the Tribunal that she was, indeed, willing to vacate the premises but she simply wished time to enable alternative accommodation to be provided to her. It was pointed out by the Tribunal that the application was affected by Cost of Living (Tenant Protection) (Scotland) Act 2022 and, even if the eviction order is granted, it would not be able to be enforced before 31st March 2024. The Respondent intimated that it was her view that it would afford sufficient time for her to secure alternative accommodation.
15. Given the position of the Parties, the financial difficulties being encountered by the Applicants having regards to the increased costs relating to the Property, set against the family and personal circumstances of the Respondent, but also taking in to account the Respondent's willingness to vacate the premises subject to her being afforded a suitable opportunity to engage with the local authority with a view to alternative accommodation being allocated to her, the Tribunal determined that it was reasonable in the circumstances to grant an eviction order. The Tribunal, however, determined that it was appropriate to defer the enforcement date until 12th April 2024 at 12:00 noon. The Tribunal did so having regard to the fact that the date of enforcement otherwise, having regard to the provisions of the Cost of Living (Tenant Protection) (Scotland) Act 2022, would be 31st March 2024. 31st March 2024, however, is Easter Sunday and it is a holiday weekend. Separately, however, the two week period following immediately thereafter are school holidays for the Easter holiday break. The Tribunal considered it appropriate, having a regard to the fact the respondent has two children at primary school, one of whom may suffer from ADHD, that it would be appropriate to allow the Respondent an opportunity, if necessary, to carry out any house move during the school holiday period which is likely to be a less disruptive for the respondent and her children.

FINDINGS IN FACT

16. The tribunal found the following facts to be established.
 - a) By lease dated 14th November 2017 the applicants let the property to the respondent.
 - b) Prior to the lease being signed an AT5 was served upon and signed by the respondent. The lease is, accordingly a short assured tenancy in terms of the housing (Scotland) Act 1988 ("The 1988 Act").
 - c) During July 2023 a notice to quit and a notice in terms of s33 of the 1988 Act were served upon the respondent.
 - d) A notice in terms of S11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the local authority.

- e) The Applicants intend to sell the Property and the Respondent is willing to vacate it.
- f) It is reasonable in the circumstances that an order for eviction be granted.

DECISION

The Tribunal granted an order against the Respondent for possession of the Property under section 33 of the Housing (Scotland) Act 1988.

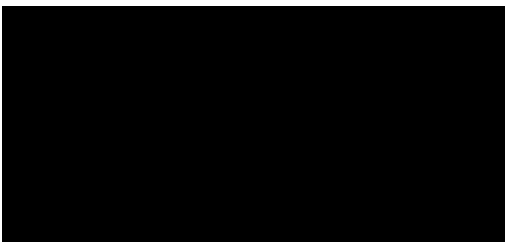
Order not to be executed prior to 12 noon on 12th April 2024

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.



26 January 2024

Legal Member/Chair

Date