

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/23/3618

Re: Property at 52 Nelson Avenue, Livingston, West Lothian, EH54 6BZ (“the Property”)

Parties:

Mr Adrian Kay, Mrs Françoise Kay, 106 Durward Rise, Livingston, West Lothian, EH54 6HY (“the Applicant”)

Ms Bridget Dowling, 52 Nelson Avenue, Livingston, West Lothian, EH54 6BZ (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member) and David MacIver (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted and that the Private Residential Tenancy between the parties shall end on the earlier of (a) the day following the end of a period of 6 months beginning with the day on which this order was granted as specified above, or (b) the expiry or suspension of Paragraph 1 of Schedule 2 of the Cost of Living (Tenant Protection) (Scotland) Act 2022.

Statement of Reasons

1. This Application called for its Case Management Discussion by teleconference call on 16 February 2024. The Applicants were represented by Mrs Hepworth. The Respondent was not present or represented.
2. In this Application, the Applicants seek an eviction order. They say that they intend to sell the Property. Mrs Hepworth explained that the Applicants have a small letting portfolio and have been reducing that recently. She said that Mr

Kay has other business interests and now wishes to retire from the private letting side of things.

3. Mrs Hepworth advised that the Respondent lives at the Property with her partner and her children. The children are all school age and attend local schools. The Respondent does not owe any rent arrears. The rent is paid directly from the local authority as part of Universal Credit. Mrs Hepworth confirmed that she had discussed the proposed sale with the Respondent, most recently two weeks ago, and had provided contact details for different people for the Respondent to speak to about housing. Mrs Hepworth's understanding is that the Respondent has approached the local authority, but that her priority for housing is not sufficiently high for her to be rehoused. That will not change until an eviction order is granted.
4. In terms of Rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 the Tribunal may do anything at a Case Management Discussion that it may do at a Hearing, including make a Decision. In terms of Rule 2, the Tribunal must have regard to the overriding objective to deal with proceedings justly when making a decision; which includes the need to avoid unnecessary delay.
5. The Respondent has received notice of the CMD and has neither attended nor arranged attendance. In the circumstances, it appears that the Application is not opposed by the Respondent. In all of the circumstances, the Tribunal is satisfied that the Applicant intends to sell the Property and that it is reasonable to grant the eviction order. The Tribunal will grant the order.
6. For the purposes of section 51(4) of the Private Housing (Tenancies) (Scotland) Act 2016, the Private Residential Tenancy between the parties will terminate on the earlier of (a) the day following the end of a period of 6 months beginning with the day on which this order was granted as specified above, or (b) the expiry or suspension of Paragraph 1 of Schedule 2 of the Cost of Living (Tenant Protection) (Scotland) Act 2022.

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.

Andrew Upton

16/02/2024

Legal Member/Chair

Date