



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/24/2746

Re: Property at 151 Gilmerton Dykes Drive, Edinburgh, EH17 8LP (“the Property”)

Parties:

Bank Of Scotland PLC, The Mound, Edinburgh, EH1 1YZ (“the Applicant”)

Miss Amy Mitchell, 151 Gilmerton Dykes Drive, EDINBURGH, EH17 8LP (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Mary Lyden (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 be granted against the respondent

Introduction

This is an application under Rule 65 and Section 18 of the Housing (Scotland) Act 1988. The application seeks an Eviction Order.

Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the respondent by Sheriff Officers on 12 November 2024.

The CMD took place by teleconference on 18 December 2024 at 2pm. The applicant was represented by Miss Katie Macdonald of Aberdeen Considine Solicitors. The respondent was represented by Sam Donegan of CHAI.

Findings and Reasons

The property is 151 Gilmerton Dykes Drive, Edinburgh EH17 8LP. The applicant is the Bank of Scotland PLC. The respondent is Miss Amy Mitchell who is the tenant.

The applicant is the lender in possession. Decree was granted at Edinburgh Sheriff Court on 31 October 2023 under the Conveyancing and Feudal Reform (Scotland) Act 1970.

A short assured tenancy was entered into between the repossessed landlord Calum Watt and the respondent for an initial period 28 March 2016 to 27 September 2016. The tenancy has continued on a month to month basis thereafter.

Ground 2 of the 1988 Act constitutes an eviction ground where the property is subject to a heritable security granted before the creation of the tenancy and the creditor is entitled to sell the house with vacant possession.

The respondent does not oppose the application for eviction so long as a 6 month period is allowed to enable her to source alternative accommodation. This reasonable and proportionate given her circumstances.

The respondent has lived in the property for many years. She is the single parent of two children aged 14 and 4. The elder child has mental and physical health problems.

A relevant Section 11 notice has been issued to the relevant local authority. The tribunal was satisfied that it is most likely that the respondents will be provided with alternate accommodation in the event of an eviction order being made against her.

The tribunal concluded that it was reasonable to grant the eviction order subject to implementation being deferred for 6 months until 18 June 2025.

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.

Richard Mill

18 December 2024

Legal Member/Chair

Date