



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016

Reference number: FTS/HPC/EV/24/3282

Order granted on 10 January 2025

Property: 22 Gallagher Avenue, Leven, Fife, KY8 4DZ

Parties:

Dawn Watson as executor on the estate of the late William Watson, 11 Willow Glade, Leven, Fife KY8 5PN (“the Applicant”)

William Bryan, residing at 22 Gallagher Avenue, Leven, Fife, KY8 4DZ (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)
Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1 of part 3 of schedule 3 to the 2016 Act.

Background

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant has lodged Form E with the Tribunal. The documents produced include a Tenancy Agreement, a Notice to leave, served on 30 January 2024, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy title sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 10.00am on 10 January 2025. Both the Applicant and the Respondent were present. Neither party was represented. The Respondent told us that he understood why the application is made, and that he has had his bags packed for the last three months. He has made applications for alternative housing without success. The Respondent told us he does not oppose the application but there are practical difficulties in finding alternative accommodation.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a private residential tenancy Agreement for the Property dated 19 May 2023.
2. The rent in terms of the Tenancy Agreement was £500 per month.
3. The late William Watson passed away on 29 June 2023. On 30 October 2023 the applicant was appointed as executor dative to his estate. The applicant wants to sell the property so that the estate of the late William Watson can be wound up.
4. On 30 January 2024 the Applicant served a notice to leave on the Respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 18 July 2024, the Applicant submitted an application to the tribunal.
5. The Applicant seeks recovery of possession of the Property in terms Ground 1 of schedule 3 to the 2016 Act. The applicant is joint executor-dative on the estate of the late William Watson and is entitled to sell the property. The applicant intends to sell the property for market value and will advertise the property for sale on the open market within three months.
6. The Respondent remains in the property but has been trying to find affordable alternative accommodation. His income comes from benefits, and he receives housing benefit of £480 per month. He last spoke to a local authority housing officer last month. He had a cardiac arrest last year and needs to avoid stress.
7. The Respondent does not resist the application for repossession. It is reasonable to grant an order for repossession of the property. It will assist the Respondent if enforcement of an order for repossession is delayed by 6 weeks.

Reasons for the Decision

8. The Applicant seeks recovery of possession of the Property in terms of Ground 1 of schedule 3 to the 2016 Act. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

9. The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in terms of Ground 1 of schedule 3 to the 2016 Act is established.

10. The Respondent offers no resistance to the application. In all the circumstances, it is reasonable to grant an order for possession.

11. For these reasons, the Tribunal determined to grant an Order for possession, but to delay enforcement for 6 weeks.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1 of part 3 of schedule 3 to the 2016 Act.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Paul Doyle

Date: 10 January 2025
Legal Member: Paul Doyle