



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/22/1396

Re: Property at 7 Hallhill Crescent, Glasgow, G33 4QH (“the Property”)

Parties:

Mr Lawrence Tierney, 15 Edrom Court, Glasgow, G32 7NH (“the Applicant”)

Ms Samantha Sinclair, 7 Hallhill Crescent, Glasgow, G33 4QN (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant but that the Order is not able to be enforced before 12pm on 2nd May 2023.

Background

1. An application was received by the Housing and Property Chamber dated 9th May 2022. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of the Private Housing (Tenancies) Act 2016 that the Applicant wishes to sell the Property.
2. On 7th November 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 9th December 2022 at 10am by teleconferencing. The letter also requested all written representations be submitted by 28th November 2022.

3. On 8th November 2022, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent personally. This was evidenced by Certificate of Intimation dated 8th November 2022.
4. On 7th December 2022, an email was received from Ms Rachel Moon, Senior Solicitor and Legal Services Manager, Govan Law Centre. The email said that the Respondent was not opposing an order being granted but would be seeking that any order be suspended for 12 weeks.

The Case Management Discussion

5. A CMD was held on 9th December 2022 at 10am by teleconferencing. The Applicant was present and represented himself. The Respondent was not present but was represented by Ms Rachel Moon, Senior Solicitor and Legal Services Manager, Govan Law Centre.
6. The Applicant was not opposed to the Respondent's proposals to not be able to enforce an order for a set period. He was fully aware that it is a difficult time to find new accommodation and that the Respondent has a son. He noted that he was looking to sell the Property to address his own personal financial situation. He said that he would have no objection to allow the Respondent 20 weeks before she had to leave the Property. He was concerned that he would have to return to another CMD. The Tribunal noted that the process is that the Order will be held until the 20 week period had expired. It would then be sent to the Applicant for him to enforce in the correct legal way. Ms Moon said that the Respondent is working with her local authority regarding being rehoused and would return the keys to the Applicant should she be allocated a new property within the 20 week period. Ms Moon noted that it was accepted by the Respondent that she had received the Notice to Leave by the Applicant delivering it personally and she had no issues with this point.
7. Given that the parties were in agreement the Tribunal was content to grant the application and allow an order for eviction with the Order not being able to be enforced for 20 weeks until 2nd May 2023.

Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 14th February 2020.
9. The Applicant intends to sell the Property once the Respondent has left. This is to assist him with his own personal finances.
10. The Respondent does not oppose an order being granted on the basis that it could not be enforced in less than 12 weeks. The Applicant did not oppose this and offered to extend that period to 20 weeks. The Respondent is working with her local authority to be rehoused. The Order will not be able to be enforced before 12pm on 2nd May 2023.

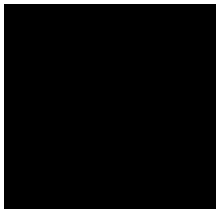
11. The Tribunal considered that there were no issues of reasonableness preventing an order being granted.

Decision

12. The Tribunal found that ground 1 had been established and granted an order in favour of the Applicant. There are no issues of reasonableness.

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

9th December 2022

Date