



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

Chamber Ref: FTS/HPC/EV/22/2200

Re: Property at Flat 0/2, 105 Skirsa Street, Glasgow, G23 5DA (“the Property”)

Parties:

Mrs Lyndsey Campbell, 84 Tresta Road, Glasgow, G23 5AD (“the Applicant”)

Ms Lynsey McGill, Flat 0/2, 105 Skirsa Street, Glasgow, G23 5DA (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property under Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

1. By application dated 5 July 2022 the Applicant applied to the Tribunal for an order for the eviction of the Respondent from the property under ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant submitted a copy of the tenancy agreement, Notice to Leave with proof of service, copy email from Estate Agent and Section 11 Notice in support of the application.
2. By Notice of Acceptance dated 1 August 2022 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned. The Tribunal also issued a Direction to the Applicant to produce evidence of service of the Section 11 Notice on the local authority.

3. By email dated 2 August 2022 the Applicant submitted written representations to the Tribunal complying with the Tribunal's Direction.
4. Intimation of the CMD was served on the Respondent by Sheriff Officers on 24 August 2022.

The Case Management Discussion

5. A CMD was held by teleconference on 10 October 2022. The Applicant attended in person. The Respondent also attended in person supported by NHS Health Visitor, Geraldine Shields.
6. The parties agreed that the Respondent entered into a Private Residential tenancy that commenced on 1 January 2018 at a rent of £525.00 per calendar month. It was also agreed that the Applicant served a Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act personally on the Respondent on 3 January 2022 advising that no application to the Tribunal would be made before 4 July 2022 and that the Respondent acknowledged receipt of the Notice to Leave by signing a letter on the same day.
7. The Applicant confirmed to the Tribunal that she had sent a Section 11 Notice to Glasgow City Council by email on 5 July 2022.
8. The Respondent advised the Tribunal that she accepted that the Notice to Leave was valid. She went on to say that following service she had tried to find alternative accommodation without success. She had approached Glasgow City Council and Housing Associations but they had been of no help. She said she had gone to the Homeless Unit at Mansion Street and they had told her they would not do anything until the Tribunal issued an order for her eviction and advised her to remain in the property.
9. The Respondent accepted that it was the Applicant's intention to sell the property.
10. The Applicant explained that she had financial difficulties and needed the money from the sale of the property to clear debt. She explained that she had run up credit card bills and was no longer able to provide properly for her children. She blamed her difficulties on the rise in the cost of living and that her debts had spiralled out of control. She thought that the property was worth about £65000 and that she had about £35000 left to pay on the standard security. She thought that once all the selling costs were deducted, she might be left with £25000 to £27000. She went on to say that her own mortgage on her family home had gone up by £200.00 per month. She also said that after paying the mortgage on the let property and the factoring costs there was not much left over. She said she did not know exactly how much her debts amounted to but it was many thousands of pounds.

11. In response to a query from the Tribunal the Applicant confirmed she only had one let property.
12. The Respondent advised the Tribunal that she was a single parent with three children aged 11, 8 and 1. She said she was not working and was in receipt of state benefits. She explained that she did not keep good health and suffered from anxiety and depression for which she saw a doctor and was prescribed medication. She confirmed that she had been worried about being made homeless and had received no support from the Homeless Unit. The Tribunal noted that the Respondent's two older children who were a boy and a girl were sharing a bedroom and that the baby was in a cot in the Respondent's bedroom. The Respondent confirmed that she really needed a three-bedroom property but there were hardly any such properties available.

Findings in Fact

13. The parties entered into a Private Residential Tenancy that commenced on 1 January 2018 at a rent of £525.00 per calendar month.
14. The Applicant intends to sell the property. She has instructed Moving Estate Agents, Glasgow, to obtain a Home Report and prepare to market the property once it is vacant.
15. The Applicant personally served a Notice to Leave on the Respondent on 3 January 2022.
16. The Applicant intimated a Section 11 notice to Glasgow City Council on 5 July 2022.
17. The Applicant has accrued credit card debt and other debts and is in some financial difficulty.
18. The Respondent has been advised by Glasgow City Council Homeless Unit she must remain in the property until the Tribunal issues an order for her eviction before they will assist her in finding alternative accommodation.
19. The Respondent is a single parent with three young children aged 11, 8 and 1. The 11- and 8-year-old are a boy and a girl and share a bedroom.
20. The Respondent suffers from anxiety and depression for which she is receiving treatment and medication. She is worried about being made homeless.

Reasons for Decision

21. The Tribunal was satisfied from the written representations and documents together with the oral submissions that the parties entered into a Private Residential Tenancy that commenced on 1 January 2018 at a rent of £525.00 per calendar month. The Tribunal was also satisfied that the Respondent was

properly served with a Notice to Leave on 3 January 2022 under Ground 1 of Schedule 3 of the 2016 Act and that it is the Applicant's intention to sell the property once she obtains vacant possession.

22. The Tribunal was satisfied from the documents produced and the oral submissions of the Applicant that a Section 11 Notice had been intimated to Glasgow City Council by email on 5 July 2022.
23. Were it not for the provisions of the Coronavirus (Scotland) Act 2020 and the Coronavirus Recovery and Reform (Scotland) Act 2022 the Tribunal would have been obliged to have granted the order sought by the Applicant. However, the Tribunal had to consider whether in all the circumstances it would be reasonable to grant the order sought. In so doing the Tribunal had to take account of the circumstances of both parties. The Tribunal was satisfied from the evidence of the Applicant that she and her family had found themselves in financial difficulties some of which had arisen from the rise in the cost of living and some from credit card debt that the Applicant had accrued that was now spiralling out of control. The Tribunal accepted that the Applicant's only way of clearing her debts was to realise the capital held in the property. On the other hand, it was apparent that the Respondent had three young children in the household and although she had made attempts to find alternative accommodation had been unable to make any progress over many months. It was also apparent that she suffered from anxiety and depression that was no doubt not helped by the worry over being made homeless. It did appear to the Tribunal however that the two-bedroom accommodation that the Respondent was currently in was not ideally suited to her needs and that it seemed that the Glasgow City Council Homeless Unit would and should provide the Respondent with accommodation if the Tribunal granted an order for eviction.
24. Having carefully considered the competing interests of both parties the Tribunal unanimously exercised its discretion in favour of the Applicant and granted the order for eviction.

Decision

25. The Tribunal being satisfied it had sufficient information before it to allow it to make a decision without the need for a hearing finds that the Applicant is entitled to an order for the eviction of the Applicant from the property under Ground 1 of Schedule 3 of 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.

**Graham Harding
Legal Member/Chair**

**10 October 2022
Date**