



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/22/3318

Re: Property at 40 Crossgates, Bellshill, ML4 2EE (“the Property”)

Parties:

Mrs Lorraine Maxwell, 75 Loancroft Avenue, Ballieston, G69 7RN (“the Applicant”)

Mr Matthew Campbell, 40 Crossgates, Bellshill, ML4 2EE (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

- Background
 1. An application dated 9 September 2022 was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of the Applicant’s intention to sell the Property, being Ground 1 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).
- Case Management Discussion
 2. A Case Management Discussion (“CMD”) took place on 15 March 2023 by conference call. The Applicant was represented by Louise Crofton of Your

Move. The Respondent was personally present and represented by Jordan Bird of Hamilton CAB.

3. The Applicant's representative moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement ("the Agreement"), which commenced 2 December 2021. The Applicant intended to sell the Property and required vacant possession in order to do so. A Notice to Leave had been served on the Respondent on the basis of Ground 1 of Schedule 3 to the 2016 Act, on 8 June 2022. The Applicant is suffering from financial difficulty and requires to sell the property to alleviate same. There are repairing issues in the Property which the Applicant has so far spent approximately £5,000 to rectify and can no longer afford to continue to rent out the Property.
4. The Respondent's representative submitted that there was an ongoing Repairing Standard application with the Tribunal, with a Repairing Standard Enforcement Order having been granted in November 2022. There are further works identified as being required. The Respondent was unaware that the Applicant was suffering from financial difficulties. The Respondent would find it difficult to remove himself from the Property in a short space of time. He suffers from anxiety and depression. He lives alone with no dependants. He has made a housing application to North Lanarkshire Council but this has not been progressed by the Council. The Respondent's representative submitted that if an Order was to be granted, he would seek extra time before it could be enforced to allow his client to remove from the Property.
5. The following documents were lodged alongside the application:
 - (i) Copy Private Residential Tenancy Agreement
 - (ii) Copy Notice to Leave
 - (iii) Proof of service of the Notice to Leave by email
 - (iv) Section 11 notification to the local authority under the Homelessness etc. (Scotland) Act 2003
 - (v) Estate Agency Agreement with Your Move
 - (vi) Minute of Agreement regarding sale of the Property
- Findings in Fact
6. The Tribunal made the following findings in fact:
 - (i) The parties entered into a Private Residential Tenancy Agreement which commenced on 2 December 2021;
 - (ii) The Applicant is the heritable proprietor of the Property;
 - (iii) The Applicant is entitled to sell the Property;
 - (iv) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 1 of Schedule 3 to the 2016 Act;
 - (v) The Applicant has provided an estate agency agreement regarding the marketing of the Property.

- Reasons for Decision

7. The Tribunal was satisfied that the terms of Ground 1 of Schedule 3 to the 2016 Act had been met, namely that the Applicant is entitled to sell the Property and intends to sell the property for market value, or at least put it up for sale, within three months of the tenant ceasing to occupy it. The Tribunal was satisfied that a Notice to Leave had been served on the Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act. The Tribunal was also satisfied that it was reasonable to grant the order in all the circumstances. The Tribunal noted that the issue of whether the Applicant intended to sell the Property was not in dispute, but rather the reasons behind why she required to sell. It was suggested by the Respondent that the landlord had been pushed to sell the Property as a result of the repairing issues. It was noted that the RSEO had been issued by the Tribunal on 22 November 2022 and therefore the Notice to leave had pre-dated this event. In any event, the Tribunal was satisfied on the basis of the submissions made that the Applicant was suffering from financial difficulty and could no longer afford the costs associated with being a landlord. The Notice to Leave had been served in June 2022 and therefore the Tribunal was satisfied that the Respondent had had more than sufficient time to take advice on, and pursue, his alternative housing options. It was noted that an application for housing had been made to North Lanarkshire Council and it was hoped that the granting of an order may assist in speeding up the processing of that housing application. The Tribunal was satisfied that it would be reasonable to afford the Respondent a longer period of time before the Order could be enforced, and therefore extended the period of enforcement to not before 6 weeks from the granting of the Order.

- Decision

8. The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

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.

Fiona Watson

Legal Member/Chair

Date: 15 March 2023

