

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) in respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and Rule 109 of the Rules

Chamber Ref: FTS/HPC/EV/22/3847

Re: Property at Flat 2/2 369 Paisley Road West, Glasgow, Scotland, G51 1LX (“the Property”)

Parties:

Santander UK PLC, 2 Triton Square, Regent's Place, London, NW1 3AN (“the Applicant”) per their agents, Ascent, 2nd Floor 1 West Regent Street Glasgow G2 1RW (“the Applicant’s Agents”)

Mr Inamullah Rashid, Flat 2/2 369 Paisley Road West, Glasgow, Scotland, G51 1LX (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory ground being established and the statutory procedure having been carried out, it is reasonable to grant the Order sought and so the Tribunal granted the Order.

1. By application received between 20 October 2022 and 15 December 2022 (“the Application”), the Applicant’s former agents applied to the Tribunal for an Order for eviction and possession of the Property based on the Ground 2 of the Act that the Property is to be sold by the mortgage lender. The Application comprised a copy of repossession decree in favour of the Applicant, copy private residential tenancy agreement between the former mortgagee and the Respondent entered into after the

repossession decree had been granted, copy Notice to Leave in terms of Ground 2 of Schedule 3 to the Act dated 4 July 2022 with proof of service and copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Glasgow City Council, being the relevant local authority.

2. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the "CMD") was fixed for 2 March 2023 at 14.00 by telephone conference and intimated to the Parties.
3. The CMD took place on 2 March 2023 at 14.00 by telephone. Neither the Applicant nor the Respondent took part, and neither was represented or submitted written representations. As the Tribunal could not be certain that it was reasonable to grant the Order, the Tribunal dismissed the Application and made no Order.
4. By email dated 9 March 2023, the Applicant's Agents applied to recall the Tribunal's decision to dismiss the Application. The Tribunal granted the application for recall and a further CMD was fixed for 23 June 2023 at 10.00 by telephone conference and intimated to the Parties.

CMD

5. The CMD took place on 23 June 2023 at 10.00 by telephone. Neither the Applicant nor the Respondent took part. The Applicant was represented by Ms. Baxter, solicitor for the Applicant's Agents. The Respondent was not represented and did not submit written representations.
6. Ms. Baxter confirmed that the Applicant's sought an eviction Order. She submitted that the Respondent had not engaged with the Applicant in any way and not paid rent. She advised that trace agents had determined that the Property was occupied but could not say by whom. She explained that no payments have been made by the mortgagee and the slae of the Property is required to reduce his indebtedness to the Applicant.

Issue for the Tribunal

7. The statutory ground and procedure being established, and the Application not being opposed, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussionincluding making a decision*". The Tribunal took the view that it had sufficient information to make a decision on reasonableness and so proceeded to determine the Application.

Findings in Fact

8. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a private residential tenancy of the Property between the mortgagee of the Property entered into after a repossession decree was issued in favour of the Applicant;

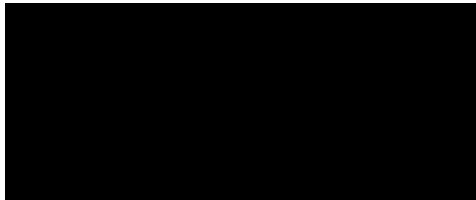
- ii) No rent or payments have been made to the Applicant by the Respondent;
- iii) No payment has been made to the Applicant by the mortgagee since March 2019;
- iv) The Applicant is entitled to sell the Property to recover the sums due to it by the mortgagee.

Decision and Reasons for Decision

9. The Tribunal had regard to all the information before it and to its Findings in Fact.
10. The Tribunal then considered if it could be satisfied it is reasonable to issue an eviction order on account of those facts and on all of the information before it.
11. The Tribunal had regard to the facts that the Applicant has a decree in its favour to repossess the Property and that the Applicant is bound to sell the Property to reduce the mortgagee's indebtedness. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction order.

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

23 June 2023.
Date