



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/22/4176

Re: Property at 7/3 New Orchardfield, Edinburgh, EH6 5ES (“the Property”)

Parties:

Mr Stewart Moncrieff, 18A Polton Road, Lasswade, Midlothian, EH18 1AA (“the Applicant”)

Mr Thomas Sawyers, 7/3 New Orchardfield, Edinburgh, EH6 5ES (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Jane Heppenstall (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.

Background

1. An application was received by the Housing and Property Chamber 15th November 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 the ground 1 of Schedule 3 of the Private Housing (Tenancies) Act 2016.
2. On 9th February 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 15th March 2023 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 2nd March 2023.

3. On 10th February 2023, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by personal service. This was evidenced by Certificate of Intimation dated 10th February 2013.

The Case Management Discussion

4. A CMD was held on 15th March 2023 at 2pm by teleconferencing. The Applicant was present and represented himself. The Respondent was present and represented himself.
5. The Applicant currently owns 10 properties including this one. The Applicant is selling his properties as he is retiring. He did have 21 properties in his portfolio. He has been selling his properties over the last 3- 4 years. This property has been selected as it requires the most refurbishment. It has not been refurbished in 12 – 13 years. The Applicant will need to undertake the refurbishments before being able to sell the Property. He noted that he had a good relationship with the Respondent. All the relevant safety checks have been undertaken in the Property to keep it in an appropriate state to be a rental property.
6. The Respondent said that he is living in the Property on his own. He has been to his local council to discuss being rehoused but he was told that he would need to come back when he had been evicted. The Tribunal noted that he could return to them to discuss the outcome of this CMD. The Respondent said that he could not oppose an order being granted. He said that the Applicant had been good to him and he did not see why he should oppose it. The Respondent said that he is Autistic and has ADHD. He has uses support from Number 6, which is a local support agency. He was content to deal with this matter by himself. He will go and get further advice on the outcome of the case after the call. He said that he is a part time dog walker. He is also speaking to Your Home regarding properties that might be available to him. He hopes to be given a local authority property as it is more secure.
7. The Tribunal was satisfied that ground 1 was met and that there were no issues of reasonableness preventing an order from being granted. The Tribunal noted that this case was caught by the Cost of Living (Tenant Protection)(Scotland) Act 2022 which would mean the Order would not be issued in 30 days but would be under the terms of this Act.
8. The Applicant said that he would contact the local authority to see if it would assist in the Respondent being allocated a property.

Findings and reason for decision

9. A Private Rental Tenancy Agreement commenced 1st February 2018.
10. The Applicant intends to sell his whole property portfolio. He currently owns 10 other properties. He has sold 11 properties over the last 3 – 4 years. He has engaged an estate agent. An engagement letter from Ninety Property Limited

dated 1st October 2022 was lodged by the Applicant confirming his intention to sell the Property.

11. The Respondent did not oppose the granting of an order for eviction.

12. There are no issues of reasonableness preventing an order being granted.

Decision

13. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant.

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.

G Miller

15th March 2023

Legal Member/Chair

Date