



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/23/1823

Re: Property at 7 Croft Crescent, Markinch, Glenrothes, Fife, KY7 6EH (“the Property”)

Parties:

Mrs Carol Campbell, Mr Colin Campbell, 10 Auchavan Gardens, Glenrothes, Fife, KY7 4TU (“the Applicants”)

Mr Arran King, 7 Croft Crescent, Markinch, Glenrothes, Fife, KY7 6EH (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mr A Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted

Background

1. This is a Rule 109 application made in the period between 5th June and 6th July 2023. The Applicants are seeking an eviction order under ground 1. The Applicants lodged a copy of the private residential tenancy agreement between the parties, which commenced on 4th October 2019 with a monthly rent of £450, copy Notice to Leave with evidence of service, copy section 11 notice with evidence of service, mortgage payment information, copy correspondence with the local authority, and copy correspondence with a selling agent as evidence of intention to sell.

Case Management Discussion

2. A Case Management Discussion (“CMD”) took place by telephone conference on 4th October 2023. The Applicants were not in attendance and were represented by Mr Tom Mcmillan. The Respondent was in attendance.

The Applicants' position

3. Mr Mcmillan said the Applicants no longer wish to let the Property, which is their only rented property. They are approaching retirement and may soon have to look after an ageing relative. The monthly mortgage repayments on the Property were £120 in July 2021. They have now risen to £372.31 per month. The Applicants can no longer afford to keep the Property. The balance of mortgage on the Property is £69,000.

The Respondent's position

4. The Respondent said he was not opposing the order. He has registered for social housing and has been told that he will not have enough points to be housed unless an eviction order is granted. The Respondent said social housing would be more affordable for him, stating that an alternative private let would be outwith his budget, as rents have increased recently. The Respondent is in employment. He has two daughters who spend three nights each week with him. The Respondent said the local authority are aware of his family situation. There are no medical issues that would give him additional priority with the local authority for housing at this time, and he said he is satisfied that an eviction order would lead to the offer of social housing.

Findings in Fact and Law

5.
 - (i) Parties entered into a private residential tenancy agreement in respect of the Property that commenced on 4th October 2019 with a monthly rent of £450.
 - (ii) The Applicants have served a Notice to Leave upon the Respondent.
 - (iii) The Applicants are entitled to sell the Property.
 - (iv) The Applicants intend to sell the Property for market value or at least put it up for sale within three months of the Respondent ceasing to occupy the Property.
 - (v) The monthly mortgage payments on the Property have increased from £120 in July 2021 to £373.31 in June 2023.
 - (vi) The Respondent's two children stay in the Property three nights each week.
 - (vii) The Respondent is on the local authority housing list and expects to be allocated a property.
 - (viii) It is reasonable to grant an eviction order.

Reasons for Decision

6. The Tribunal is satisfied that the necessary Notice to Leave has been correctly issued to the Respondent in terms of the Act. The requisite section 11 Notice has been served upon the local authority.
7. Ground 1 of Schedule 3 of the Act provides that it is an eviction ground if the landlord intends to sell the let property. The Tribunal may find the ground met if the landlord is entitled to sell the property and intends to do so for market value, or at least put it up for sale within three months of the tenants ceasing to occupy it. The Tribunal accepted that the Applicants intend to sell the Property as required by the legislation. The Tribunal was satisfied that Ground 1 had been established.
8. The Tribunal considered the significant increase in monthly mortgage payments to be a burden upon the Applicants as they approach retirement. The Tribunal was concerned that no information was provided in respect of additional outgoings in respect of the Property; however, the Tribunal was satisfied that there are likely to be additional costs which may include maintenance and insurance. The Tribunal noted the representations from the Applicants in the application file which stated that it was impossible for them to keep the Property due to the increase in mortgage payments, and that it was costing them money on a monthly basis. The Tribunal also noted that the Applicants stated that they required the equity in the Property to support their family.
9. In considering the Respondent's circumstances, the Tribunal took into account the fact that the Respondent was not opposing the order, and that he was satisfied that social housing would be offered if the order was granted. The Tribunal also took into account the fact that the Respondent considered the level of rent in social housing would be more sustainable than in a private let.
10. In all the circumstances, the Tribunal decided it was reasonable to grant the order.

Decision

11. An eviction order in respect of the Property is granted. The order is not to be executed prior to the earlier of (a) the day following the end of a period of 6 months beginning with the day on which the order was granted (4th October 2023), or (b) the expiry or suspension of Paragraph 1 of Schedule 2 of the Cost of Living (Tenant Protection) (Scotland) Act 2022.

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.

**Helen Forbes
Legal Member/Chair**

**4th October 2023
Date**