



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/23/1018

Re: Property at 7 Willow Road, Mayfield, Dalkeith, EH22 5LN (“the Property”)

Parties:

Mrs Margaret Donkin, 27 Roanshead Crescent, Easthouses, Dalkeith, EH22 4NZ (“the Applicant”)

Ms Sam Quinn, 7 Willow Road, Mayfield, Dalkeith, EH22 5LN (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Ann Moore (Ordinary Member)

Decision

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

Introduction

This is an application under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The application seeks an eviction order.

Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the respondent by Sheriff Officers on 11 May 2023.

The CMD took place by teleconference on 27 July 2023 at 10.00 am. The applicant was represented by Mrs Jacqueline Barr of AM Lettings Ltd. The respondent joined personally and represented her own interests.

Findings and Reasons

The property is 7 Willow Road, Mayfield, Dalkeith, Midlothian EH22 5LN. The applicant is Mrs Margaret Donkin who is the heritable proprietor of the property and the registered landlord. The respondent is Ms Sam Quinn who is the tenant.

The respondent has lived in the property since 2016 and the parties entered into a new private residential tenancy which commenced on 2 April 2022. The rent was stipulated at £850 per month.

The applicant relies upon ground 1 contained within part 1, schedule 3 to the 2016 Act. This specifies that it is an eviction ground where the landlord intends to sell the let property. The relevant notice period under ground 1 at the time that the Notice to Leave was served was one of 84 days.

The notice to leave relied upon in this case is dated 24 June 2022 and stipulates that the earliest an application be submitted to the tribunal would be 19 September 2022. There is evidence of an email sending the notice to leave to the respondent on the day that it was dated, namely 24 June 2022. The notice to leave, served upon the respondent and relied upon in this application is therefore valid. Sufficient notice was given.

In support of the ground of eviction the applicant has produced a copy of an email dated 16 March 2023 from the head of estate of agency at McDougall McQueen Solicitors confirming that they are engaged to sell the property on behalf of the applicant upon the vacant possession. The applicant's representative advised that the motivation to sell was due to the applicant's own financial circumstances.

The tribunal was satisfied on the basis of the credible and reliable unchallenged evidence that it is the applicant's genuine intention to sell the let property. Ground 1 is therefore established. The tribunal proceeded to consider the issue of reasonableness on the making of an eviction order.

The respondent is not opposed to the application. She has known of the applicant's proposed intention to sell for some time, even prior to the entering into of the most recent tenancy agreement in April 2022. The respondent is unemployed and in receipt of benefit income. She lives in the property with her 17 year old daughter. Both the respondent and her daughter have health issues.

The respondent is willing to remove herself from the property. She has approached Midlothian Council to seek alternative accommodation but has been advised that she must evidence that she faces homelessness within a 56 day period. A section 11 notice has been issued to the relevant local authority. The tribunal was satisfied that the respondent will be provided with alternate accommodation in the event of an eviction order being made.

The tribunal concluded that it was reasonable to grant the eviction order. The tribunal determined that it was fair to the respondent to extend the period within which she is required to remove. The tribunal extended the period from the standard 30 days to a period of 56 days (8 weeks) stipulating that no eviction can take place until 21 September.

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.

Richard Mill

27 July 2023

Legal Member/Chair

Date