



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/23/1655

Re: Property at 20 Rose Street, Nairn, IV12 4AJ (“the Property”)

Parties:

Mrs Elke Ambrose, Mr Alisdair Ambrose, Frithview, 3 Links Place, Nairn, IV12 4NH (“the Applicant”)

Miss Maria Welsh, 20 Rose Street, Nairn, IV12 4AJ (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order.

1. Introduction

This Case Management Discussion (CMD) concerned an Application for an Eviction Order in respect of a Private Residential Tenancy under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The CMD took place by teleconference. Parties were advised on the procedure of a CMD and the rules regarding them.

2. Attendance and Representation

The Applicants were present and unrepresented.

The Respondent was not present. She had been served by Sheriff Officer on 7th July 2023.

3. Preliminary Matters.

There was no Respondent in attendance. The Applicants said that they had tried to contact her through her preferred facebook messenger messages a couple of weeks ago but there was no response.

The Applicants said their intention is to sell the property and this is what was notified in terms of the Notice to Leave. However she said that other grounds became applicable thereafter due to substantial rent arrears. She had considered amendment but has never had to do this before and they are relatively inexperienced at applications. No intimation of amendment was made and no pre-action protocol on rent arrears followed.

The Tribunal determined that the Application could only proceed on Ground 1 in the absence of any Notice to Leave specifying other grounds, in the absence of an application and notice of same to Amend and in all the circumstances in their discretion. It was noted that the further potential grounds became apparent after the Notice to Leave had been served.

There were no preliminary matters discussed or raised by either party.

4. Case Management Discussion.

The Applicant.

The Applicant's set out that they sought an Eviction Order in order that they can sell the property. She said she wanted to sell the property and had provided 3 months notice of this to the Respondent with no response. The Applicant's said that there had been significant difficulties to do with maintenance of the property and that she had lost her job. The Applicants had decided to sell the property. The Applicant said there had been significant impact from the employment change but they had also decided they did not want to invest money to keep the property on as it was too expensive for them. They told the Tribunal it was financially viable for them to sell it. They have 2 other rental properties and both are rented out with long term lease agreements. They are a stable income and don't require maintenance in the same way. The property concerned has a flat roof and requires structural repair. There had also been a fire which resulted in damage to the kitchen which will require refurbishment. There is a mortgage on the property.

The Applicants did not have much details on the Respondent's circumstances. They said she lived alone and she had herself suggested she had mental health difficulties and the Applicant's had offered to speak instead with a support worker but no one made contact.

Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The Respondent had been served by Sheriff Officer on the 7th July 2023. No written representations or appearance had been made by the Respondent or a representative.**
- 2. The Applicants sought an Order for Eviction on the grounds that their intention was to sell same.**
- 3. The Tribunal was satisfied that the Applicants were the heritable proprietors of the Property as a copy title was lodged with the Application.**
- 4. There was a PRT in place between parties dated 14th February 2020.**
- 5. A Notice to Leave was sent to the Respondent on 10th February 2023 station Ground 1, Schedule 3 of the Act only.**
- 6. The Tribunal was satisfied on balance that the Applicants were in terms of Schedule 3, Part 1 Ground 1 of the 2016 Act intending to sell the property. The Applicant's provided personal and credible reasons for this including written evidence establishing a change in employment status.**
- 7. The Tribunal found that the requirements of Ground 1 of Part 1, Schedule 3 to the Act had been met.**
- 8. The Tribunal was also satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period. There was no challenge to same.**
- 9. The Tribunal noted the Local Authority under the 2016 had been notified.**
- 10. The Tribunal considered reasonableness. The Applicants explained that the property required upgrading and maintenance in regards a flat roof and following a fire. One of the Applicant's had lost employment and the Applicants had determined the property was not financially viable and should be sold. The Tribunal enquired over the Respondent's circumstances and were told she was a single tenant, may have mental ill health and that the Applicant's had no further information on her personal circumstances. The Tribunal found an Order in its discretion was reasonable in terms of the Coronavirus (Scotland) Act 2020.**
- 11. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.**

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.

K Kirk

Legal Member/Chair

11 August 2023_
Date