



FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference : MAN/00CG/RTB/2024/0001

Property : 2 Channing Gardens, Sheffield, S6 2QW

Applicant : Mrs Rose Dean
Assisted by Ms Lesley Crooks

Respondent : Sheffield City Council

Type of Application : Right To Buy A Dwelling, Housing Act 1985,
Schedule 5, Paragraph 11, As Amended By The
Housing Act 2004, Section 181.

Tribunal Members : Judge C. P. Tonge, LLB, BA.
Mrs S. A. Kendall, BSc, MRICS.

Date of Decision : 18 September 2024

DECISION

Application and Background

1. Mrs Rose Dean (the Applicant) gave notice under section 122 of the Housing Act of 1985 (the Act) to the landlord, Sheffield City Council (the Respondent), of her intention to exercise her right to buy her dwelling, 2 Channing Gardens, Sheffield, S6 2QW (the property).
2. The Council then served a notice (form RTB 2) dated 23 November 2023 on the Applicant under Section 124 of the Act denying the tenants' right to buy on the grounds set out in paragraph 11 of Schedule 5 of the Act.
3. By an application dated 19 December 2023 and received 22 December 2023, the tenant applied to the First-tier Property Tribunal under paragraph 11(4) of Schedule 5 of the Act for a determination as to whether the grounds set out in paragraph 11 are satisfied. The tenant has at all times been assisted by her daughter Ms Lesley Crooks.
4. The tenant's application was copied to the Respondent by the Tribunal. In reply the landlord served a notice indicating an intention to oppose the tenants' appeal.
5. Neither of the parties requested an oral hearing and therefore the case was listed to proceed with an inspection and paper determination on 18 September 2024. The parties were informed accordingly.
6. The tenant's representations are contained in the application to the Tribunal and a two page letter, dated 3 May 2024. The Respondent's representations are contained in a letter, dated 14 June 2024.

The Property

7. The Tribunal inspected the property and surrounding area, commencing at 10 am on 18 September 2024. The Applicant and her daughter were present, no one attended to represent the Respondent.
8. The property is a ground floor flat in a purpose built block of flats, very close to Langset Road that is a main road with both bus and tram stops. These stops are about 90 yards from the property along a flat pavement and foot path. These stops give frequent services into the city centre and the Meadowhall shopping centre. There is also a bus stop on Langset Crescent that is even closer to the property. There are two car parks that are also close to the property. The property is very close to a parade of shops but several of those are closed and none of them sell groceries. The

nearest shop at which groceries can be bought is the Morrisons supermarket that is 0.4 of a mile away.

9. The block of flats housing the property has a common entrance door that is approached by a flat path that has a slight rise as it approaches the door. Where the path has the rise, it also has a handrail. The entrance to the building has a push button intercom entry system. Once through the building entrance the property is first door to the right and the very short distance from building door to property door is flat. The building has small, pleasant, communal gardens.
10. The property was built, circa 1978 and is contained within block of 4 flats, being part of a larger local authority development. The property is a one bedroomed flat with uPVC double glazed windows and gas fired central heating from a Vaillant wall mounted combi-boiler.
11. The property has an entrance hall with a radiator. The living room has a radiator and the electricity sockets are raised on the walls well above ground level. The kitchen is a fitted kitchen, containing the gas boiler and a radiator and has an extractor fan. White goods are supplied by the tenant. There is a large cupboard or storeroom. The bathroom has been improved by the tenant who has had wall and floor tiles fitted along with a Triton electric shower, curtain rail and curtain, and a heated towel rail. There is an extractor fan in the bathroom. There is a further cupboard that once housed the hot water cylinder. The double bedroom has a radiator.

The Law

Paragraph 11 of Schedule 5 of The Act provides that:-

- 1) The right to buy does not arise if the dwelling-house
 - a) is particularly suitable, having regard to size, design, heating system, and other features, for occupation by elderly persons, and
 - b) was let to the Tenant or predecessor in title of his for occupation by a person who was aged 60 or more (whether the Tenant or predecessor or another person).
- 2) In determining whether a dwelling is particularly suitable, no regard shall be had to the presence of any feature provided by the tenant or a predecessor in the title of his...
- 6) This paragraph does not apply unless the dwelling house concerned was first let before the 1st day of January 1990.

The Circular from The Office of the Deputy Prime Minister (ODPM Circular 07/2004) sets out guidance as to the floor plan and design features of a property that can be considered to be particularly suitable for occupation by elderly persons of age 60 and over. It also provides guidance as to what the surrounding area should contain. Further it defines an elderly person as being a person of 60 years of age and over who is capable of living independently despite some limitations owing to age and who is not frail or severely disabled.

The Issues

12. The Applicant has raised the issue that similar flats have been sold in the area.
13. The Respondent states that the premises had first been let prior to 1 January 1990 and this has not been challenged by the Applicant. The Applicant's tenancy commenced on 8 August 2022, when Mrs Dean was 90 years of age.
14. The only matter for the Tribunal to determine is whether under Paragraph 11(1) (a) of The Act the dwelling house is particularly suitable... for occupation by elderly persons.

Written Submissions

15. The Respondent submits that the property is particularly suitable for occupation by elderly persons

The Deliberations

16. In the determination of whether or not the property itself is particularly suitable for occupation by elderly persons, the Tribunal disregards the tenant's improvements to the bathroom. The Tribunal determines that paths to the near by bus and tram stops can easily be walked by a person of 60 years of age and over who is capable of living independently despite some limitations owing to age and who is not frail or severely disabled. The tram and bus services are frequent and provide services to Sheffield City Centre. The Morrisons supermarket is reached along flat pavements, but the bus service provides convenient transport for some of the 0.4 of a mile distance.
17. The property itself is particularly suitable for occupation by a person of 60 years of age and over who is capable of living independently despite some limitations owing to age and who is not frail or severely disabled.

18. The Tribunal does not know the circumstances in which other similar properties may have been sold in the area and therefore cannot comment upon this representation.
19. The Tribunal determines that the property is particularly suitable for occupation by elderly persons.

The Decision

20. The requirements of Paragraph 11 (1) (b) of the Act as to date of the first letting and the age of the occupier are met.
21. The flat does provide a home that is particularly suitable for occupation by elderly persons.
22. The Tribunal therefore determines that the grounds set out under paragraph 11 of schedule 5 of the Act are satisfied and that Sheffield City Council may rely on those grounds to deny the Applicants her right to buy.
23. If either party to this case should wish to appeal against this Decision, appeal is to the Upper Tribunal. That party has 28 days to deliver to this First-tier Tribunal an application for permission to appeal, stating the grounds of appeal and the particulars of the grounds, also stating the result that the appellant seeks in raising the appeal.

Judge C. P. Tonge

20 September 2024