



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/25/0501

Re: Property at 76 Anderson Crescent, Forres, IV36 1NE (“the Property”)

Parties:

Mr Steve Bate, 25 Hall Bank Lane, Hebden Bridge, Yorkshire, HX7 5HQ (“the Applicant”)

Miss Aimee McIntosh, Miss Kelsey-Marie Green, 76 Anderson Crescent, Forres, IV36 1NE (“the Respondents”)

Tribunal Members:

Valerie Bremner (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in favour of the Applicant and against the Respondents in terms of Ground of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Applicant is entitled to sell the let property, intends to sell it for market value, or at least put it up for sale within three months of the tenants ceasing to occupy it and the tribunal was satisfied on account of those facts that it is reasonable to grant the order. In terms of Rule 16A of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 extended the period for execution of this order by a period of two months.

Background

1. This application for an eviction order in terms of Rule 103 of the Tribunal rules of procedure was first lodged with the Tribunal on 6th February 2025 and accepted by the Tribunal on 7th March 2025. A case management discussion was fixed for 20th August 2025 at 10am.

The Case Management Discussion

2.The Applicant did not attend the case management discussion but was represented by Mr Beck of Cluny Estate Agents. Both Respondents attended the case management discussion and represented themselves.

3.The Tribunal had sight of the application, a tenancy agreement, Notices to Leave with proof of postage and delivery for each of the Respondents and proof of delivery, a Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 and an email from the Applicant landlord to the estate agents instructed by him and an agency sales agreement for the property.

4. The parties had entered into a private residential tenancy at the property with effect from 1st January 2024.The Applicant's circumstances had changed as he had bought a new family home in Cumbria and now required to sell this property to fund adaptations to his new home. The Applicant is a Paralympian. Mr Beck's firm were instructed to act in the sale of the property should the eviction be granted.

5.The Respondents were aware of the reason for the eviction and said that they were not disagreeing that the landlord needed to sell and intended to do that. They said they had been put in an unfortunate situation. The first Respondent has a health condition which she set out, has poor mobility and has required a number of surgeries. She said that she and her daughter and the second Respondent needed adequate time to make long term housing plans. The first Respondent Ms McIntosh was concerned that they would be able to move somewhere with adequate social networks for her daughter. She said that they had tried to move. They had approached Moray Council who had advised them not to leave the property but to attend the Tribunal. They were not opposed to an eviction and had discussed their needs with the local authority. Though ground floor housing would be better for Ms McIntosh they could accept an upstairs property with grab rails in place.

6.Ms Mcintosh indicated that they were looking at both private rented and social housing and needed a property with at least two bedrooms. The second Respondent did shift work, and the first Respondent worked mainly from home and in Forres. The First Respondent had had a medical diagnosis in 2017 which had resulted in significant surgeries, and she had struggled with that and had relied on family support at that time. The Respondents were willing to move anywhere within the Moray area and did not require to stay locally provided that the First Respondent's daughter could have transport to and from school. The Respondents were seeking extra time for any eviction order granted to be executed

7.Mr Beck said that the letting agency would rehouse the Respondents as tenants and although he did not know how urgent the landlord's position was regarding the sale he considered it reasonable to give the Respondents some extras time to find a property and to vacate the let property.

8.Ms McIntosh indicated that they had approached the estate agency's branch in Forres for support but could not consider all suitable properties as some were not appropriate financially. She said they were looking for properties each day, but the rental market was terrible and the rent on properties was up to three times what they were currently paying.

9. The Tribunal had sight of Notices to Leave dated 8th November 2024 sent by post to both of the Respondent tenants together with proof of delivery of these notices.

10. The Tribunal also had sight of a Notice in terms of section 11 of the Homelessness etc(Scotland) Act 2003 sent to Moray council in relation to this application by email of 5th February 2025.

11. The Tribunal was satisfied that it had sufficient information upon which to make a decision and that the proceedings had been fair.

Findings in Fact

12. The parties entered into a tenancy agreement in relation to the right property with effect from 1st January 2024.

13. The Applicant is the owner of the property, his only rental property and is entitled to sell it.

14. The Applicant has recently purchased a new family home in Cumbria and requires to sell the let property to pay for adaptations which he requires to make to his new family home.

15. The Applicant intends to sell the let property and has consulted estate agents who are instructed to market and sell the let property in terms of an agreement dated 9th July 2025.

16. The Applicant intends to sell that property for market value or at least put it up for sale within three months of the Respondents ceasing to occupy it.

17. The Respondents do not object to an eviction order being granted and have been seeking other rented accommodation in the Moray area.

18. The first Respondent has mobility issues due to a health condition and although a ground floor property is better for her, she could accept an upstairs property if grab rails are in place for her.

19. The Respondents are prepared to live anywhere in the Moray area provided there is transport available for the first Respondent's daughter to attend school.

20. The Respondents are seeking additional time to find another rented property and vacate the let property, and the Applicant does not oppose them being given a reasonable time to vacate the property.

21. Notices to Leave dated 8th November 2024 in proper form setting out the eviction ground were sent to the Respondents by post and delivered to them on 9th November 2024.

22. The Notices to Leave indicated that an application to the Tribunal for an eviction order would not be made before 4th February 2025.

23. A Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2023 was sent by email to Moray Council in relation to this application 5th February 2025.

Reasons for Decision

24. The tribunal was satisfied that the appropriate procedures had been carried out in relation to this application in terms of the Notices to Leave and section 11 notice sent in this application. The Applicant 's subjective intention to sell was evidenced in that he has instructed estate agents to market and sell the property. His subjective intention was set out in an e-mail seen by the tribunal in that he wishes to sell the property to fund adaptations to his new family home. The Respondents do not object to the order and do not suggest that it would not be reasonable to grant it. They are seeking additional time to find a property in the Moray area which is suitable for the first Respondent who has mobility issues and has transport for her daughter to travel to and from school. Having considered the overall circumstances the tribunal considered it was reasonable to grant the order, the decisive factor here being the Applicant's circumstances when weighed against those of the Respondents and the fact that they do not oppose an order being granted.

25. The Respondents were seeking additional time to find a new property and to vacate the let property and the Applicant's representative did not object to a reasonable time being given for that purpose. The Tribunal considered it reasonable to extend the period for execution of the order for a period of two months to allow for this.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an eviction order be granted in favour of the Applicant and against the Respondents in terms of Ground of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Applicant is entitled to sell the let property, intends to sell it for market value, or at least put it up for sale within three months of the tenants ceasing to occupy it and the tribunal was satisfied on account of those facts that it is reasonable to grant the order. In terms of Rule 16A of the First-Tier Tribunal for Scotland Housing and Property Chamber(Procedure) Regulations 2017 extended the period for execution of this order by two months.

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.

V Bremner

Legal Member/Chair

20.8.25

Date