



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51 of the Private
Housing(Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/22/0362

**Re: Property at Flat 0/2, 4 Hillside Park, Hardgate, Clydebank, G81 6BD (“the
Property”)**

Parties:

**Mr James Brady, Fern Cottage, Dell Road, Nethybridge, PH25 3DJ (“the
Applicant”)**

**Mr David Munn, Flat 0/2, 4 Hillside Park, Hardgate, Clydebank, G81 6BD (“the
Respondent”)**

Tribunal Members:

Susan Christie (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order is granted against the Respondent for
eviction of the Respondent from the Property under section 51 of the Private
Housing (Tenancies) (Scotland) Act 2016, under Ground 1 under Schedule 3.**

Background

1. The application for an eviction order was accepted by the tribunal on 24 February 2022. The Applicant seeks an eviction Order under Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (‘the Act’).
2. The tribunal paperwork was served on the Respondent by Sheriff Officers service on 11 March 2022, by letterbox service.
3. The Respondent was invited to submit a written response by 31 March 2022.No written representations were submitted by the Respondent.

The Case Management Discussion- 4 May 2022

4. A Case Management Discussion (CMD) took place on 4 May 2022 by conference call. The Applicant was represented by Ms Mullen.
5. The Respondent did not participate. The tribunal was satisfied the procedure was fair, intimation having been made to the Respondent, and proceeded in his absence.
6. The paperwork submitted along with the Application was examined and discussed.
7. The tribunal was addressed by Ms Mullen.
8. The Applicant is the registered owner of the Property and landlord.
9. A Private Residential Tenancy (PRT) was entered into between the Applicant and the Respondent over the Property on or around 28 January 2019, with a start date of 31 January 2019.
10. A Notice under Section 11 of the Homelessness etc. (Scotland) Act 2003 was sent to the local authority on 3 February 2022.
11. A Notice to Leave dated 5 July 2021 relying on Ground 1 of Schedule 3 to the Act was served with six months' notice being given to the Respondent.
12. There was produced along with the application a sole selling rights agreement that the Applicant had signed on 31 January 2022 and that still stood as valid.
13. The Applicant had decided to sell the Property as he is disillusioned with his experience in letting the Property and the lack of engagement by the Respondent. The rent is £450 per calendar month payable in advance. It was explained that the rent arrears as at today stood at £5,650 and there had been no engagement by the Respondent. In addition, whilst the Property had been newly upgraded prior to the let, an inspection had been undertaken by the letting agent some considerable time ago, when there were concerns regarding the cleanliness of the Property and there had been damage noted to an internal door. The Applicant therefore had concerns about the current condition of the Property.
14. The Applicant's Representative sought an eviction order today. She submitted that the Ground had been established. As background, attempts had been made to engage with the Respondent around the rent arrears, but this was unsuccessful. A letter had been sent on 22 September 2021. The Respondent is believed to be 40 years of age and was employed when he took on the let. No further information was known as there had been no contact. The Applicant wanted to come out of the rental market entirely and intended to sell the Property as soon as he could. The tenancy had only been around 26 months in duration and there had been rent arrears for 13 of those months.
15. A brief adjournment took place to allow discussion between the tribunal members.

Findings in Fact

- I. A Private Residential Tenancy (PRT) was entered into between the Applicant and the Respondent on or around 28 January 2019, with a start date of 31 January 2019.
- II. A Notice to Leave dated 5 July 2021 relying on Ground 1 of Schedule 3 to the Act was served on the Respondent on 5 July 2021.
- III. A Notice under Section 11 of the Homelessness etc. (Scotland) Act 2003 was sent to the local authority on 3 February 2022.
- IV. The Applicant is the owner and landlord of the Property and is entitled to sell the let Property.
- V. The Applicant has entered into a sole selling rights agreement with an agent to sell the Property, dated 31 January 2022 and he intends to sell the Property for market value or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.
- VI. The Tribunal is satisfied that it is reasonable that an eviction Order should be made.

Reasons for Decision & Decision

The application has been served on the Respondent by Sheriff officer service along with the supporting documentation. There was no participation by the Respondent, and he had not made any written representations.

The tribunal had regard to all that was said, and the paperwork produced and carefully considered it.

A Private Residential Tenancy (PRT) was entered into between the Parties. A Notice to Leave dated 5 July 2021 relying on Ground 1 of Schedule 3 to the Act was served with six months' notice being given to the Respondent. It entitled the Applicant to raise an application for recovery from 8 January 2022. A Notice under Section 11 of the Homelessness etc. (Scotland) Act 2003 was sent to the local authority on 3 February 2022.

There was produced along with the application a sole selling rights agreement for the Property that the Applicant had signed on 31 January 2022 and that still stood as valid. The tribunal finds that the Ground had been established. The Applicant is the owner and landlord of the Property and is entitled to sell the let Property. The Applicant has entered into a sole selling rights agreement with an agent to sell the Property, dated 31 January 2022 and he intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

The Tribunal had regard to the amendments made to the Act in relation to the Coronavirus (Scotland) Act 2020, particularly the discretion to be applied.

The tribunal accepted the Applicant's reasoning behind his wish to sell the Property, that he was disillusioned with his experience in letting the Property and the lack of engagement by the Respondent. The tribunal was advised that the agreed rent is £450 per calendar month payable in advance. Attempts had been made to engage with the Respondent around the rent arrears, but this was unsuccessful. A letter had been sent on 22 September 2021. The Respondent is believed to be 40 years of age and was employed when he took on the let. No further information was known as there had been no contact. The Applicant wanted to come out of the rental market entirely and intended to sell the Property. The tenancy had only been around 26

months in duration and there had been rent arrears for 13 of those months. It was explained that the rent arrears as at today stood at £5,650. In addition, whilst the Property had been newly upgraded prior to the let, an inspection had been undertaken by the letting agent some considerable time ago, when there were concerns regarding the cleanliness of the Property and there had been damage noted to an internal door.

The Tribunal was satisfied an eviction Order should be made and it was reasonable to do so. The decision is unanimous.

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.

Susan Christie

Legal Member/Chair

4 May 2022
Date