

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 and Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”)**

**Chamber Reference number: FTS/HPC/EV/23/3603**

**Property: 52 Craigton Road, Aberdeen, AB15 7UR**

**Parties:**

**Mr Nigel Hogg and Mrs Gail Hogg, 10 Binghill Road North, Milltimber, Aberdeen, AB13 0JD (“the Applicants”)**

**Ms Maymunat Aigbokhaode, 52 Craigton Road, Aberdeen, AB15 7UR (“the Respondent”)**

**Tribunal Members:**

**Ms. Susanne Tanner K.C. (Legal Member)  
Mr. Ahsan Khan (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”):**

**(1) was satisfied that Ground 1 in Schedule 3, Part 1 to the 2016 Act was established by the Applicant, in that on the day the tribunal considered the application for an eviction on its merits: the Landlord intends to sell the Let Property for market value or at least put it up for sale within three months of the Respondents seeking to occupy it; and that it was reasonable to make an eviction order on account of those facts; and made an order for eviction in terms of Section 51 of the 2016 Act;**

**(2) The decision of the tribunal was unanimous.**

## **Statement of Reasons**

### **Procedural Background**

1. The Applicants made an application to the tribunal on 10 October 2023 in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”).
2. The Applicant provided the following documents in support of the amended Application:
  - 2.1. Copy Notice to leave date 23 June 2023
  - 2.2. Proof of service of Notice to Leave.
3. The tribunal’s administration obtained a copy of the Title Sheet for the Property which showed the registered proprietors are the applicants.
4. Further information was requested by the tribunal from the Applicant’s Representative and provided, in an amended bundle of supporting documents, including:
  - 4.1. Section 11 notice sent to the local authority; and
  - 4.2. Letter from the applicant’s daughter stating her intention to purchase the property with vacant possession for her own use.
5. The application was accepted on 29 November 2023 and the tribunal sent letters of notification to all parties with the date, time and arrangements for joining the Case Management Discussion (“CMD”) in relation to the Application.
6. Prior to the CMD the Respondent sent an email stating her position in relation to the application. She does not oppose the eviction order but seeks more time to find alternative accommodation for the reasons outlined in her email.

### **CMD: 22 February 2024, 1400h, Teleconference**

7. The Second Applicant attended on behalf of herself and the First Applicant.
8. The Respondent attended.
9. After introductions of the tribunal members and parties, I explained the nature and purpose of the CMD.

## **Submissions on behalf of the applicant**

10. The Applicant's Representative seeks the Respondents' eviction from the Property under Ground 1 of Schedule 3 of the 2016 Act, on the basis that the Applicants' daughter wishes to buy the property with vacant possession to live in it herself. She is 31 years old and is currently living with the Applicants. She is a teacher in Aberdeen and wishes to purchase her own property. She has had discussions with a financial adviser and is in a position to buy the property. The property has been in the family since it was owned by the Applicants' parents. There is no urgency for her to move but notice was given last June and the Applicants' daughter would like to move in and get settled by the summer.
11. A Notice to Leave dated 23 June 2023 was sent to the Respondent, seeking her eviction on Ground 1, namely that the landlord has decided to sell the Property.
12. The Application to the tribunal was made on 10 October 2023.
13. The Applicant's Representative submitted that it would be reasonable for the tribunal to evict the Respondents and stated the following:
  - 13.1. The Respondent has lived in the Property since around 2020;
  - 13.2. Notice to Leave was properly given to the Respondent in June 2023;
  - 13.3. The Applicants' daughter, who is a single 31 year old teacher in Aberdeen, wishes to buy the property to move into it by the summer and get settled;
  - 13.4. The Applicants understand that the Respondent has requested some additional time to find another property for her and her family if an eviction order is granted and the Applicants would have no objection to a longer period for enforcement than would otherwise be the case.

## **Respondent's submissions**

14. The Respondent did not oppose the eviction order in principle but stated that she wished more time to find alternative accommodation in the local authority or social housing sector for her and her family. She is looking for a three bed (rather than a two bed) property as she has two sons, one of whom is a 19 year old adult and the other is a 13 year old child. She wishes a property with a garden to meet her younger son's needs. Properties of that type are outwith her budget in the private sector in Aberdeen. She has already had conversations with the local authority and social housing provider. She said that the local authority had asked to be updated with the outcome of the CMD. She requested an additional two months for her property search.

## **15. The tribunal makes the following findings-in-fact:**

- 15.1. The Applicants are the registered proprietors of the Property.
- 15.2. There is a private residential tenancy agreement between the Applicants and the Respondent for the Property which started in or around 2020.
- 15.3. On 23 June 2023, a Notice to Leave containing ground 1 of Schedule 3 to the 2016 Act was served on the Respondent.
- 15.4. The Applicant has given the Respondent at least 84 days' notice that she requires possession.
- 15.5. The Application to the tribunal was made on 10 October 2023.
- 15.6. The Applicants intend to sell the Property to their daughter with vacant possession so that she can live in the Property.
- 15.7. The Applicants' daughter is a single 31 year old teacher who wishes to move into the Property before the summer.
- 15.8. The Respondent does not oppose an eviction order but does not have an alternative property yet.
- 15.9. The Respondent cannot afford a property of the type she requires in the private sector.
- 15.10. The Respondent has made enquiries with the local authority and social housing sectors and has been placed on waiting lists.

## **16. Findings in fact and law**

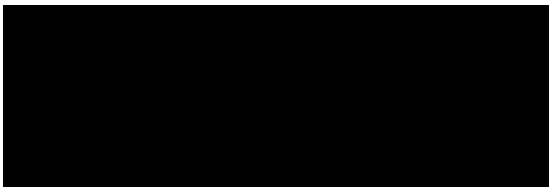
- 16.1. The tribunal is satisfied that the facts required in paragraph 1 of Schedule 3 to the 2016 Act have been established.
- 16.2. The tribunal is satisfied that it is reasonable to make an order for eviction.

## **Discussion**

17. The order for eviction is sought in terms of Section 51 and paragraph 1 of Schedule 3 to the 2016 Act. The tribunal was satisfied that the requirements of those provisions have been met.
18. In relation to reasonableness, reference is made to the tribunal's findings in fact. In particular, although the Property is their family home, the Respondent does not oppose the eviction order and simply seeks more time to find local authority or social housing. She does not wish to be made homeless with her child and adult sons.
19. The tribunal was satisfied that it was reasonable to evict the Respondent in the circumstances of the case but that enforcement of the order should be suspended until 22 May 2024 to allow the Respondent time to obtain alternative accommodation for her and her family.

## **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.**



**22 February 2024**

**Ms. Susanne L. M. Tanner K.C.  
Legal Member/Chair**