



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

**Chamber Ref: FTS/HPC/EV/23/3845**

**Re: Property at 71 Titwood Road, Glasgow, G41 2DG (“the Property”)**

**Parties:**

**Mr Ramesh Gupta, 9 Deanbeath Court, Ferniegair, Hamilton, ML3 7TR (“the Applicant”)**

**Mr Tony (Wahid) Ali, 71 Titwood Road, Glasgow, G41 2DG (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member) and Frances Wood (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant.**

**Background**

1. The Applicant seeks an eviction order in terms of Section 51 of the Private Housing Tenancies (Scotland) Act 2016 (“the 2016 Act”). Documents lodged in support of the application include a Tenancy Agreement, Notice to Leave, Notice to the Local Authority in terms of Section 11 of the Homelessness etc (Scotland) Act 2003, rent statement, estate agency valuation of the property and email correspondence with a solicitor. The application is based on grounds 1 of schedule 3 of the 2016 Act, the landlord intends to sell the let property.
2. A copy of the application and supporting documents were served on the Respondent by Sheriff Officer. Both parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 11 March 2024 at 2pm, and they were required to participate. .

3. The CMD took place on 11 March 2024. The Applicant was represented by Mr Haq and Mr Hassan. The Respondent did not participate and did not contact the Tribunal prior to the CMD.

### **Case Management Discussion**

4. The Applicant's representatives told the Tribunal that there has been no recent contact with the Respondent. However, they drove past the property today and his car was in the driveway, so he is still living at the property. The representatives advised that there have been no payments to the rent account since September 2023, shortly after the Notice to leave was served. They understand that the Respondent owns and runs a restaurant in Johnstone. He had other businesses but these have folded or been sold. The Respondent is aware of the application and the CMD and told them that he intended to instruct a solicitor to represent him.
5. The representatives advised the Tribunal that this is the only property they manage for the Applicant and they believe it is his only rental property. He has decided to sell it, as he cannot afford to continue to rent it out. The property was let to the Respondent at a reduced rate because he was having financial issues. However, he has accrued arrears of over £11,000 and the Applicant is having to use his savings to cover the mortgage and other costs associated with the property. It is understood that the Respondent resides at the property with his wife or partner and adult children. The older son is believed to be in employment but the representatives have no information about the other occupants. The occupants are not known to have any health issues or disabilities.

### **Findings in Fact**

6. The Applicant is the owner and Landlord of the property.
7. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
8. The Applicant is entitled to sell the property.
9. The Applicant intends to market the property for sale when it becomes vacant.
10. The Applicant has experienced financial difficulties because of the increased cost of living and the failure by the Respondent to pay rent since September 2023.
11. The Respondent resides at the property with his partner and adult children.
12. The Respondent owns and runs a restaurant.

13. The Respondent has incurred rent arrears of £11,100

### **Reasons for Decision**

14. The application to the Tribunal was submitted with a Notice to Leave dated 2 August 2023 together with an email delivery receipt, which establishes that the Notice was sent to the Respondent on the same date. The Notice to leave states that an application to the Tribunal is to be made on ground 1, landlord intends to sell the let property. Part 4 of the notice indicates that the earliest date that an application to the Tribunal can be made is 28 October 2023. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice and evidence that it was sent to the Local Authority by email. The Tribunal is satisfied that the Applicant has complied with Section 56 of the 2016 Act.

15. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies." Ground 1 of Schedule 3 states, "(1) It is an eviction ground that the landlord intends to sell the let property (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if (a) the landlord is entitled to sell the let property, (b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact "

16. The Tribunal is satisfied that the Applicant, as owner of the property, is entitled to sell it. From the documents submitted with the application, and the information provided by the Applicant at the CMD, the Tribunal is also satisfied that the Applicant intends to market the property for sale when it becomes vacant. He has instructed a selling agent and a solicitor.

17. The Tribunal is also satisfied that it would be reasonable to grant the application for the following reasons

(a) The Respondent has incurred rent arrears of over £11,000 and has made no payments to the rent account since September 2023.

(b) The Applicant is having to use his own resources to cover mortgage and other costs associated with the property. This is causing financial difficulty.

- (c) The Respondent and at least one other member of his household are understood to be in work.
- (d) The Respondent did not participate in the CMD or provide any information regarding his circumstances, although he had the opportunity to do so. It is understood that there are no children living at the property.

18. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act, that the eviction ground has been established, and that it would be reasonable to grant the eviction order.

### **Decision**

19. The Tribunal determines that an eviction order should be granted against the Respondent.

### **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.**

**Josephine Bonnar, Legal Member**

**11 March 2024**

**J Bonnar**

*(Handwritten signature)*