

Housing and Property Chamber
First-tier Tribunal for Scotland



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 Ref: FTS/HPC/EV/23/4368

Re: Property at Flat 0/1, 200 Paisley Road West, Lorne Gait, Kinning Park, Glasgow, G51 1BU (“the Property”)

Parties:

Mrs Margaret Holmes, 22 Pemberton Valley, Ayr, KA7 4UH (“the Applicant”)

Aberdein Considine & Company 5-9 Bon Accord Crescent, Aberdeen, AB11 6DN (the Applicant’s Representative”)

Mr Nasir Finlayson, Flat 0/1, 200 Paisley Road West, Lorne Gait, Kinning Park, Glasgow, G51 1BU (“the Respondent”)

Govan Law Centre, 18-20 Orkney Street, Govan, Glasgow, G51 2BX (the Respondent’s Representative”)

Tribunal Members:

Ms Susanne Tanner KC (Legal Member) and Ms Eileen Shand (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 Applicant intends to sell the Let Property for market value or at least put it up for sale within three months of the Respondent 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 Applicant's Representative made an application to the tribunal on 6 December 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 Application:
 - 2.1. Copy Notice to leave
 - 2.2. Proof of service of Notice to Leave.
 - 2.3. Copy Section 11 Notice and proof of service;
 - 2.4. Statement of Applicant
 - 2.5. Letter of consent from co-proprietor.
3. The tribunal's administration obtained a copy of the Title Sheet for the Property which showed the Applicant is one of two joint registered proprietors.
4. The application was accepted on 4 January 2024 and the tribunal sent letters of notification to all parties with the date, time and arrangements for joining the Case Management Discussion ("CMD") on 5 April 2024 in relation to the Application.
5. The Respondent appointed a representative.
6. On 4 April 2024, the day prior to the CMD the representatives for both parties sent a Joint Minute of Agreement to the tribunal, in which it is agreed that there is no opposition to the eviction order being granted by the tribunal at the Case Management Discussion on 5 April 2024 on the basis that the Applicant undertakes not to take any steps to enforce the order for a period of 12 weeks expiring on 28 June 2024.

CMD: 5 April 2024, 1000h, Teleconference

7. Mr Forbes from the Applicant's Representative attended on behalf of the Applicant.
8. Ms Brooks from the Respondent's Representative attended on behalf of the Respondent.

9. The representatives confirmed the terms of the Joint Minute of Agreement and invited the tribunal to make an eviction order on the basis agreed, in which it states that it is not to be enforced before 28 June 2024.

10. The tribunal makes the following findings-in-fact:

- 10.1. The Applicant is one of the joint registered proprietors of the Property and has the consent of the other proprietor to let the Property to the Respondent and to raise the tribunal proceedings.
- 10.2. There is a private residential tenancy agreement between the Applicant and the Respondent for the Property which started on 1 July 2019.
- 10.3. On 5 September 2023, a Notice to Leave containing ground 1 of Schedule 3 to the 2016 Act was served on the Respondent.
- 10.4. The Applicant has given the Respondent at least 84 days' notice that she requires possession.
- 10.5. The Application to the tribunal was made on 6 December 2023.
- 10.6. The Applicant and the other registered proprietor intend to sell the Property with vacant possession.
- 10.7. It is no longer financially viable for the Applicant to retain the Property.
- 10.8. The Respondent does not oppose an eviction order.
- 10.9. The Applicant does not have an alternative property yet and wishes a further period of time until 28 June 2024 to seek alternative accommodation.
- 10.10. The Respondent's representative is assisting the Respondent to make enquiries with the local authority about alternative accommodation.

11. Findings in fact and law

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

Discussion

12. 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.
13. In relation to reasonableness, the Respondent does not oppose the eviction order and simply seeks more time to find local authority housing, with which he is being assisted by his representative.
14. 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 28 June 2024 to allow the Respondent further time to seek alternative accommodation.

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.



5 April 2024

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