



**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/23/1043**

**Re: Property at Flat 1/1, 33 Carrington Street, Glasgow, G4 9AJ (“the Property”)**

**Parties:**

**Preferred Mortgages Limited, 1 Chamberlain Square Cs, Birmingham, United Kingdom, B3 3AX (“the Applicant”)**

**Mr Asgar Aslam, Flat 1/1, 33 Carrington Street, Glasgow, G4 9AJ (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Mrs H Barclay (Ordinary Member)**

**Decision**

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

**Background**

1. This is a Rule 109 application made in the period between 29<sup>th</sup> March and 22<sup>nd</sup> June 2023. The Applicant is seeking an eviction order under ground 2. The Applicant lodged a copy of a private residential tenancy agreement between the parties that commenced on 7<sup>th</sup> November 2022, a copy notice to leave with evidence of service, a copy section 11 notice with evidence of service, and copy Extract Decree dated 1<sup>st</sup> July 2021
2. Case Management Discussions (“CMD”) took place by telephone conference on 24<sup>th</sup> October 2023 and 7<sup>th</sup> February 2024. There was a joint motion on behalf of the parties on both occasions seeking an adjournment of the CMD to allow the Property owner’s son to purchase the Property on a buy to let mortgage.

## The Case Management Discussion

3. A CMD took place by telephone conference on 15<sup>th</sup> May 2024. Mr Brannigan, Solicitor, attended on behalf of the Applicant. Mr Sattar, Letting Agent, attended on behalf of the Respondent.
4. Mr Brannigan moved the Tribunal to grant an order for eviction, stating that no real progress had taken place towards redemption of the standard security. It was his position that the Applicant had been as reasonable as possible. There had been repeated promises since February 2023, but no progress had been made in a year. The Respondent had said at the last CMD that he would seek alternative accommodation if the owner's son did not purchase the Property and this had not happened.
5. Mr Sattar said the Respondent had told him the previous day that the owner's son would have funds to purchase the Property within one month. The delay had been caused by a security to the local authority in respect of repairs, which had to be redeemed. The Respondent had delayed in attempting to find alternative accommodation because of reassurances that the matter would settle. The Respondent has spent money on the Property, assuming it would be a long-term rental agreement. Mr Sattar has had no direct discussion with the Property owner or her son. All discussions have been with the Respondent and have been relayed to Mr Sattar.
6. Responding to questions from the Tribunal, Mr Sattar said the Respondent lives in the Property with his seven-year-old child, who goes to school in the local area. The Respondent is self-employed. The Respondent has never been in rent arrears. He has not been in touch with the local authority to discuss social housing. Asked whether he would be asking the Tribunal to fix a hearing on reasonableness, Mr Sattar said that was not the Respondent's position. The Respondent accepts he may have to leave the Property if an order is granted. The Letting Agent has an alternative property in the area that can be let to the Respondent if necessary.
7. The Tribunal asked representatives for their representations on delaying execution of an eviction order for an additional month. Mr Brannigan said the Applicant was opposed to any further delay. Mr Sattar submitted such a delay would be helpful to the Respondent and may allow time for the owner's son's purchase to settle.
8. Mr Brannigan submitted it was reasonable to grant the order as there had been no progress. The Applicant is seeking to sell the Property as soon as possible, particularly as the local authority security is accruing interest.

## **Findings in Fact and Law**

9.
  - i. The Property is subject to a standard security granted by the heritable proprietor in favour of the Applicant as registered in the Register of Sasines for Scotland on 12<sup>th</sup> October 2007.
  - ii. The Applicant obtained Decree for Repossession of the Property on 1<sup>st</sup> July 2021.
  - iii. The Respondent and the heritable proprietor of the Property entered into a private residential tenancy agreement commencing on 7<sup>th</sup> November 2022.
  - iv. The Applicant intends to sell the Property.
  - v. The Applicant is entitled to sell the Property.
  - vi. The Applicant requires the Respondent to leave the Property for the purpose of disposing of it with vacant possession.
  - vii. The Applicant has served a notice to leave on the Respondent.
  - viii. The Respondent lives with his seven-year-old child in the Property.
  - ix. The Respondent is likely to be provided with alternative private accommodation if the eviction order is granted and he is unable to remain in the Property.
  - x. It is reasonable to grant an order for possession.
  - xi. It is reasonable to delay execution of the order for possession to 15<sup>th</sup> July 2024.

## **Reasons for Decision**

10. Ground 2 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that it is an eviction ground that a lender intends to sell the let property. The Tribunal may find the ground applies if the let property is subject to a heritable security, the creditor under the security is entitled to sell the let property, the creditor requires the tenant to leave the property for the purpose of disposing of it with vacant possession, and the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts. The Tribunal is satisfied that the ground is met.
11. The Tribunal considered all the circumstances of both parties when considering whether it was reasonable to grant the order. The Tribunal

considered that the Applicant had been reasonable in allowing further time to the Respondent for the owner's son's sale to settle. The Applicant is entitled to sell the Property and to progress the sale without any further delay.

12. The Tribunal noted that the Respondent was not opposed to the granting of the order, and did not wish to have a hearing on reasonableness, but required further time to allow the purchase by the owner's son to proceed. The Tribunal took into account the Respondent's circumstances, and the fact that he has a young child attending school in the area. The Tribunal took into account that alternative accommodation is available for the Respondent if the purchase by the owner's son does not proceed.
13. The Tribunal considered it would be in the Respondent and his child's interests to allow an additional period of a month beyond the appeal period before which the eviction order could be executed. This may allow the purchase of the Property by the owner's son to be settled. If the purchase does not take place, it will allow further time for the Applicant and his child to move home. The Tribunal considered it would be more appropriate, and in the child's interests, for any such move to take place during the summer holidays.
14. In all the circumstances, the Tribunal considered it was reasonable to grant the order for possession.

## **Decision**

15. An eviction order is granted. The order is not to be executed prior to 12 noon on 15<sup>th</sup> July 2024.

## **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.**

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**Legal Member/Chair**

**15<sup>th</sup> May 2024**  
**Date**