



**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”)**

**Ref: FTS/HPC/EV/23/4510**

**Re: Property at 25 Lomond Gardens, Kirkcaldy, KY2 6AE (“the Property”)**

**Parties:**

**Mr Alan Douglas, 47 Loughborough Road, Kirkcaldy, KY1 3BZ (“the Applicant”)**

**Mr Arthur Grabowski, 25 Lomond Gardens, Kirkcaldy, KY2 6AE (“the Respondent”)**

**Frontline Fife, 57-59 Viewforth Street, Kirkcaldy, KY1 3DJ (“the Respondent’s Representative”)**

**Tribunal Members:**

**Ms. Susanne L. M. Tanner K.C. (Legal Member)  
Mrs. Sandra Brydon (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 Respondent ceasing to occupy it; and that it was reasonable to make an eviction order in the circumstances; 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 made an application to the tribunal on 13 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. Notice to Leave dated 23 August 2023;
  - 2.2. Letter by the Applicant stating intention to sell dated 12 December 2023;
  - 2.3. Email from estate agent to Applicant; and
  - 2.4. Section 11 notice to local authority and proof of service.The Application also listed a residential lease but this was not in the tribunal’s papers.
3. The tribunal’s administration obtained a copy of the Title Sheet for the Property which showed the Applicant has been the registered proprietor of the Property since 6 August 2010.
4. Further information was requested from the Applicant and he provided
  - 4.1. Emails from estate agent to Applicant dated 19 January 2024 copy of 5 July 2023 email; and
  - 4.2. Section 11 notice proof of service by email
  - 4.3. Proof of service of Notice to leave by email.
5. The application was accepted for determination on 21 February 2024 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 on 18 June 2024 by teleconference at 1400h. The Application paperwork was personally served on the Respondent by Sheriff Officers. The Respondent was told that if he wished to submit written representations these should be sent to the tribunal by 3 June 2024.
6. The Applicant confirmed that he would represent himself at the CMD. He also sent emails to the tribunal’s administration in relation to seeking access for a gas safety inspection, which were not relevant to the eviction application.

7. On 4 June 2024 the Respondent's Representative contacted the tribunal to confirm that they had been instructed to represent the Respondent. Written representations were submitted in which it was stated that the Respondent does not oppose the application for eviction and that he is applying for local authority housing.

**CMD: 18 June 2024, 1400h, Teleconference**

8. Mr Douglas, the Applicant, attended.
9. Ms Watson from the Respondent's Representative attended on behalf of the Respondent.
10. Ms Watson confirmed that the Respondent is not opposing the eviction application. She has met the Respondent and explained what eviction means. Her colleagues are working with him in his application for local authority housing. He will not be entitled to make a homeless application until his eviction date is set.
11. The Applicant withdrew Ground 1A and proceeded only on ground 1. He wishes an eviction order so that he can sell the property or market it for sale within 3 months of the Respondent ceasing to occupy it. He said that his son is going to university and that he needs more money to support him. Behind the decision to sell the Property and other properties the Applicant owns has been family finances. He said that he also has a mortgage on the Property and that the Applicant is in significant debt with the rental payments. He said that at the present time there are £4125 of rent arrears that is not including the payment due on 16 June 2024.
12. The Applicant said that the Property being sold as one of a number of properties. The plan is to sell all the properties. He has a potential buyer for the Property whom he has sourced himself. They want to buy the property with vacant possession, without a tenant. The Home Report has not been carried out yet. He said that he cannot move forward with this sale. The discussion with the agent was marketing for sale in July 2023. He said that there is no particular reason he has started with selling this one. He said that with all the new legislation he no longer wants to be a landlord. The other two properties are tenanted at the moment. The rental return on those is better than this one and that it makes more sense to sell this one first. He said that he was expecting the Respondent and his partner to leave in June 2023 after they gave notice, at which point he had intended to sell it empty without a tenant. In relation to the other two properties mentioned in the estate agent's letter, one has been sold and the other has been rented.

13. Ms Watson said that the Respondent originally got this property with his partner. When she left, he was unable to afford the property by himself. He is also struggling with addiction.

14. Mr Douglas asked a question about the outstanding rent and the procedure for gaining access for a gas safety inspection which is overdue. I directed him to the Housing and Property Chamber website and also suggested that he seeks legal or housing advice if needed. Ms Watson said that she would take instructions from the Respondent about giving access for the gas safety inspection.

15. The tribunal adjourned to consider the Application.

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

16.1. The Applicant is the registered proprietor of the Property.

16.2. There is a private residential tenancy agreement between the Applicant and the Respondent for the Property.

16.3. On 23 August 2023, a Notice to Leave containing ground 1 and ground 1A of Schedule 3 to the 2016 Act was served on the Respondent.

16.4. The Applicant has given the Respondent at least 84 days' notice that he requires possession.

16.5. The Application to the tribunal was made on 13 December 2023.

16.6. The Applicant intends to sell the Property on the open market or at least market it for sale within three months of vacant possession.

16.7. The Applicant is selling all of his rental properties as he no longer wishes to be a landlord and he requires funds for family purposes including funding his son's University education.

16.8. The Respondent has not opposed the eviction order.

16.9. The Respondent's tenancy is a sole tenancy.

16.10. The Respondent cannot afford the rent for the Property on his own.

16.11. There are substantial rent arrears outstanding.

16.12. The Respondent intends to seek local authority housing and his representative has informed the local authority about the tribunal proceedings.

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

17.1. The tribunal is satisfied that the facts required in paragraph 1 of Schedule 3 to the 2016 Act have been established.

17.2. The tribunal is satisfied that it is reasonable to make an order for eviction.

## **Discussion**

18. 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.

19. In relation to reasonableness, reference is made to the tribunal's findings in fact. The Respondent is a sole tenant in the Property. He has not opposed the eviction application. He understands the effect of an eviction order. He cannot afford the Property on his own. There are substantial rent arrears. The Respondent has had help from his Representative to make an application for local authority housing. The Applicant requires the funds from the sale for family reasons including funding his son's University education.

20. The tribunal was satisfied that it was reasonable to evict the Respondent in the circumstances of the case.

## **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.**

Ms. Susanne L. M. Tanner K.C.

18 June 2024

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**Legal Member/Chair**