



**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/24/0064**

**Re: Property at 7 Bull Road, Clarkston, Glasgow, G76 8EF (“the Property”)**

**Parties:**

**Mr Robert Signer, 18 Faulds Drive, Kirkintilloch, G66 3QT (“the Applicant”)**

**Ms Julie Lavery, 7 Bull Road, Clarkston, Glasgow, G76 8EF (“the Respondent”)**

**Tribunal Members:**

**Shirley Evans (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 order against the Respondent for possession of the Property at 7 Bull Road, Clarkston, Glasgow, G76 8EF under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees, and others together with their goods, gear and whole belongings furth and from the Property and to make the same void and redd that the Applicant or others in his name may enter thereon and peaceably possess and enjoy the same.

**Background**

1. This is an application for eviction for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The Applicant based application on Ground 1 (Landlord intends to sell the Property) of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

2. The application was accompanied by a Private Residential Tenancy Agreement dated 11 September 2018, a Notice to Leave dated 10 October 2023, emails between the Applicant and McGregor MacLeod solicitors dated 10 October 2023 and a Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with email to East Renfrewshire Council dated 11 October 2023.
3. On 20 May 2024 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 25 June 2024. The Respondent required to lodge written submissions by 10 June 2024. This paperwork was served on the Respondent by Chelsea Murray, Sheriff Officer, Glasgow on 21 May 2024 and the Execution of Service was received by the Tribunal administration.

### **Case Management Discussion**

4. The Tribunal proceeded with the CMD on 25 June 2024 by way of teleconference. Mr Signer the Applicant appeared on his own behalf. His wife was also in attendance. There was no appearance by or on behalf of the Respondent despite the CMD starting 5 minutes late to allow her plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in her absence.
5. The Tribunal had before it the Private Residential Tenancy Agreement dated 11 September 2018, the Notice to Leave dated 10 October 2023, the emails between the Applicant and McGregor MacLeod solicitors dated 10 October 2023 and the Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with email to East Renfrewshire Council dated 11 October 2023. The Tribunal noted the terms of these documents.
6. Mr Signer explained that he had had a number of properties which he had sold in the past. This was his last one. He was at retirement age and wanted to make life easier for him as he felt the policies of the Scottish Government were too onerous for him to continue as a Landlord. He had served the Notice to Leave by hand on the Respondent with whom he spoke to and she acknowledged he wanted to sell the Property. He has had some text messages with the Respondent since then and he has been to the Property to attend to certain issues. He received an email a few weeks previously to tell him she was not moving. He explained she lived alone at the Property. He is aware she has a Social Worker and believed this to be as the Respondent was on benefits. He explained the Respondent had had some medical problems but did not feel he could ask her about those so was unable to assist the Tribunal further as to what they may have been. He has kept the local Council updated on the action.

## **Findings in Fact**

7. The Applicant and the Respondent entered into a Private Residential Tenancy in relation to the Property on 11 September 2018.
8. The Applicant intends to sell the Property as he finds that as he is in retirement the obligations of a Landlord are too onerous.
9. The Applicant served a Notice to Leave on the Respondent personally by hand delivery on 10 October 2023. The Notice to Leave required the Respondent to leave the Property by 3 January 2024. The Notice to Leave relied on Ground 1(Landlord intends to sell) of Schedule 3 to the 2016 Act.
10. The Applicant served a Notice under Section 11 of the Homelessness, etc. (Scotland) Act 2003 on East Renfrewshire Council on 11 October 2023.
11. The Respondent lives in the Property alone.

## **Reasons for Decision**

12. The Tribunal considered the issues set out in the application together with the documents lodged in support.
13. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 1, namely the Landlord intends to sell the Property. This is a discretionary ground of eviction. As well as being satisfied the facts have been established to support the grounds, the Tribunal has to be satisfied that it is reasonable to evict
14. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave, unless it is not made in breach of any of sections 54 to 56 and unless the eviction ground applied for is stated in the Notice to Leave accompanying the application.
15. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states it is the Applicant's intention to sell the Property at Part 2 of the Notice in terms of Ground 1 of schedule 3. The Notice to Leave specifies the date the landlord expects to become entitled to make an application for an eviction order and specifies a date in terms of Section 54(2) in this case 3 January 2024. The Notice to Leave was served on the Respondent personally by hand on 10 October 2023. In terms of Section 54 the notice period of the Notice to Leave is 84 days. The Notice to Leave stated the earliest date the Applicant could apply to the Tribunal was 3

January 2024. In the circumstances the Tribunal is satisfied the Respondent has been given sufficient notice. Accordingly, the Notice to Leave complies with Section 62.

16. The Tribunal considered the submissions made by Mr Signer. The Tribunal was satisfied on the basis of the documents lodged, together with submissions made by Mr Signer, that the factual basis of the application had been established in relation to Ground 1 and was satisfied the Applicant intended to sell the Property as soon as he regained possession.
  
17. In determining whether it is reasonable to grant the order, the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal was satisfied that the Applicant's intention was to sell the Property when he obtained possession of it. He clearly explained that he found the obligations of being a Landlord too onerous now he was at a pensionable age. Mr Signer was keeping the Local Council advised as to the action. Although he was able to say that he thought the Respondent may have had some medical difficulties he was not aware of what they were. The Respondent had not disputed the application. The balance of reasonableness in this case weighted towards the Applicant. The Tribunal find it would be reasonable to grant the order.
  
18. In the circumstances the Tribunal considered that in terms of Ground 1 of Schedule 3 it was reasonable to grant an eviction order in terms of Section 51 of the 2016 Act.

### **Decision**

19. The Tribunal granted an order for repossession. The decision of the Tribunal was unanimous.

### **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.**

Shirley Evans

25 June 2024

---

Legal Chair

---

Date