



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber)**

**Chamber Ref: FTS/HPC/EV/24/1450**

**Re: Property at 34 Neilston Road, Uplawmoor, East Renfrewshire, G78 4AB (“the Property”)**

**Parties:**

**Mactaggart & Mickel Homes Ltd, 1 ATLANTIC QUAY, 1 ROBERTSON STREET,  
GLASGOW, G2 8JB (“the Applicant”)**

**Tara Afendi, Baghan Maroof, 34 Neilston Road, Uplawmoor, East Renfrewshire,  
G78 4AB (“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**BACKGROUND**

1. By lease dated 18<sup>th</sup> November 2019, the Applicants let the Property to the Respondents.
2. The Applicants wish to sell the Property. Vacant possession is required to enable them to do so.
3. The Applicants did consider selling the Property to the first named Respondent but, after a home report was obtained, it was noted there were significant structural defects within the Property resulting in it not being suitable for mortgage lending purposes. As such, the first named Respondent was unable to proceed with her intended purchase.
4. A notice to leave was served upon the Respondents.

5. A notice in terms of s11 of the Homelessness etc (Scotland) Act 2003 was intimated to the local authority.
6. The second named Respondent has already vacated the Property.

## **THE CASE MANAGEMENT DISCUSSION**

7. The Applicants were represented by Mr Alexander of Messrs DJ Alexander lettings. The first named Respondent participated in the Case Management Discussion personally. The second named Respondent did not. The tribunal advised the second named Respondent has already vacated the premises.
8. The Tribunal was in receipt of a certificate of intimation from sheriff officers, however, confirming the proceedings had been intimated upon the second named Respondent and, in the circumstances, determined that it was appropriate to proceed with the Case Management Discussion in her absence.
9. Mr Alexander advised the Tribunal of the background circumstances to the grant of the lease and the need to recover possession. His clients are commercial house builders. They acquired this Property some time ago as it was a "gap site" required by them in relation to a development they intended proceeding with to the rear of this Property. His clients are no longer proceeding with that development and his clients no longer require this Property for the original purpose in connection with that development. As a result, as letting the Property is not in line with their normal business as house builders, they are now looking to "offload" it.
10. Discussions had taken place with the first named Respondent, Miss Afendi, who expressed an interest in buying the Property.
11. The Applicants were content to proceed with a sale to her. A home report was obtained by the Applicants to facilitate the sale. The home report, however, disclosed there were major structural problems with the Property. The quotation for the cost of work to rectify is in the region of £180,000.00.
12. Due to the structural defects at the Property, the Property is not suitable for mortgage lending purposes. As a result, Miss Afendi was unable to proceed with the purchase. Due to those structural defects, the Applicants, once vacant possession is obtained, will either need to sell the Property to a developer who is able to buy it without a mortgage or, alternatively, demolish the Property, with a view to selling the land on which it is constructed.
13. Miss Afendi advised that she was not opposed to the eviction order being granted. She advised the Tribunal of various issues at the Property in relation to problems with the heating and water leaks. She advised she had withheld rent due to these defects. While the Tribunal heard from Miss Afendi in relation to such matters, the Tribunal advised her that they were not relevant to the issue to be determined by the Tribunal, that being whether an eviction order should be granted on the basis the Applicants intended to sell the Property. Miss Afendi accepted that.
14. She advised that she lives at the Property with her 14 year old son. He attends school locally. She has been actively looking for properties to either buy or rent in the local area but so far, has been unsuccessful in identifying anything suitable. She again confirmed she has no objection to an eviction order being granted but suggested that she would wish some time to enable her to identify and either purchase or let an alternative Property for use by her.

15. Discussions took place in relation to deferment of the date of enforcement of an eviction order if one is to be granted. After each Party had addressed the Tribunal, the Tribunal intimated that it intended granting an order for eviction, which was a matter of consent between the Parties, and thereafter determining that the date of enforcement of the order for eviction, if that became necessary, would be deferred until 27<sup>th</sup> September 2024. There was no opposition to that on behalf of the Applicants.
16. In the circumstances, having regard to the agreement between the Parties in relation to issues to be determined by the Tribunal, an order for eviction was granted with a date of enforcement, if necessary being 27<sup>th</sup> September 2024.

## **DECISION**

The Tribunal granted an order against the Respondents for eviction of the Respondents from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 of Schedule 3 to said Act

Order not to be executed prior to 12 noon on 27 September 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.**

**Virgil Crawford**

**21 June 2024**

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**Legal Member/Chair**

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**Date**