

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 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/1646

Re: Property at 66 St. Vigean Road, Arbroath, DD11 4DL (“the Property”)

Parties:

Mr Alastair Dingwall, residing at Aron Cottage, Lilybank Street, Friockheim, D11 4TP (“the Applicant”) and

Thorntons Law LLP, 3rd Floor, Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD (“the Applicant’s Representative”) and

Mr Valentin Nikolov, residing at 66 St. Vigean Road, Arbroath, DD11 4DL (“the First Respondent and

Ms Julija Vietniece, residing at 66 St. Vigean Road, Arbroath, DD11 4DL (“the Second Respondent”)

Tribunal Members:

**G McWilliams- Legal Member
A Khan- Ordinary Member**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined as follows:

Background

1. This Application, contained in papers lodged with the Tribunal, was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).

2. The Applicant's Representative, had provided the Tribunal, in the Application, with copies of the parties' Private Residential Tenancy Agreement ("the PRT"), the Notice to Leave served on the Respondents and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to Angus Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied.
3. The Respondents, Mr Nikolov and Ms Vietniece had been validly served by Sheriff Officers with the Notification of Hearing, Application papers and Guidance Notes from the Tribunal on 1st August 2024, and the Sheriff Officers' Certificate of Intimation was produced.

Case Management Discussion on 3rd September 2024

4. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call at 2.00pm on 3rd September 2024. The Applicant's Representative Mr C. Gordon and the Respondents Mr Nikolov and Ms Vietniece attended.
5. Mr Gordon referred to Mr Dingwall's Affidavit within the case papers, dated 4th April 2024, and stated that Mr Dingwall seeks to sell the Property in order to pay off the Bank of Scotland mortgage, in respect of the Property, and also to repay the mortgage loan provided to him by National Westminster Bank plc, in relation to his home residence.
6. Mr Nikolov and Ms Viteniece stated to the Tribunal that they have recently received an offer of a tenancy of a two bedroomed home from Angus Council but that this cannot be processed until the Tribunal have granted an eviction order. They stated that the Council are awaiting the outcome of the CMD and that they have another appointment with the Council Housing Officer at 10.00am on Wednesday 4th September 2024. Mr Nikolov and Ms Vietniece stated clearly that they consent to the grant of an eviction order in favour of Mr Dingwall.

Statement of Reasons

7. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
8. Schedule 3 (1) (1) of the 2016 Act provides that it is an eviction ground that a landlord intends to sell the let property and confirms the criteria for the grant of an eviction order on this ground.

9. The Tribunal considered the Application papers, including the PRT, Notice to Leave and supporting papers, in particular Mr Dingwall's Affidavit. The Tribunal, also considered the statements and submissions made by Mr Gordon, Mr Nikolov and Ms Vietniece at the CMD. Having done so the Tribunal found in fact that Mr Dingwall seeks recovery of the Property in order to sell it and found in law that Ground 1 in Schedule 3 to the 2016 Act is satisfied. Given that Mr Dingwall as well as Mr Nikolov and Ms Vietniece seek the grant of an eviction order the Tribunal also found that it is reasonable to make such an order.

Decision

10. The Tribunal therefore makes an eviction order as sought in this Application.

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.

G. McWilliams

3rd September 2024

Tribunal Legal Member

Date