



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/0624

Re: Property at 12 Windsor Terrace, PERTH, PH2 0BA (“the Property”)

Parties:

Ms Julie Richardson, 19 Lundies Walk, Auchterarder, PH3 1BG (“the Applicant”)

Ms Jeanette Ritchie or Stewart, 12 Windsor Terrace, PERTH, PH2 0BA (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property.

Background

1. By application dated 7 February 2024 the Applicant’s representatives, Premier Properties, Letting and Estate Agents, Perth applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a copy of a tenancy agreement, Notice to Leave, Section 11 Notice, signed Sales Agreement together with other documents in support of the application.
2. By Notice of Acceptance dated 28 March 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 24 June 2024.

The Case Management Discussion

4. A CMD was held by teleconference on 1 August 2024. The Applicant did not attend but was represented by Mr Murray Hall from the Applicant's representatives and the Respondent attended in person. The Respondent confirmed that she now wished to be known as Mrs Jeanette Stewart.
5. The Tribunal noted that the Respondent had commenced her tenancy of the property on 1 March 2023 having previously been a joint tenant with her husband since 2017. The Tribunal noted that the Respondent had separated from her husband hence the need for a new tenancy agreement.
6. The Tribunal noted that the Respondent had been served with a Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act on 7 November 2023 that provided that the Applicant would not raise proceedings for her eviction before 1 February 2024.
7. The Tribunal also noted that Perth & Kinross Council had been given notice of the proceedings by way of a Section 11 Notice sent to them by email on 7 February 2024.
8. The Tribunal ascertained from Mr Hall that the Applicant was still seeking an order for the eviction of the Respondent and the Respondent advised the Tribunal that she was not opposing the application.
9. The Tribunal explained that it required to be satisfied that it was reasonable to grant the order and asked Mr Hall to provide it with further information as regards the reasons for the Applicant wishing to sell the property. Mr Hall indicated he did not have much information but understood the Applicant wished to sell for financial reasons.
10. The Tribunal referred Mr Hall to his email of 7 November 2023 to the Respondent in which it was said the reason for selling was due to the increase in the Applicant's monthly mortgage resulting in her running at a loss every month. The Tribunal pointed out that according to the Registered Title there was no Standard Security registered over the property.
11. The Respondent advised the Tribunal that she lived in the property with her 12-year-old daughter and that she worked in the area and her daughter attended a local school. The Respondent confirmed she had applied to the Local Authority for housing but had not yet been offered anything and was not on the Homeless list pending the outcome of the

CMD. The Respondent confirmed she was in receipt of Universal Credit and that her rent was paid up to date.

12. The Tribunal adjourned for a short period to allow Mr Hall to obtain more information from the Applicant. Following the adjournment Mr Hall advised the Tribunal that he had been unable to contact the Applicant but had found an email from her dated 7 November 2023 advising that it had been costing her since February that year to rent the property.
13. Although the Respondent had said she did not oppose the order being granted the Tribunal was concerned that this might be on the basis that she believed there was a mortgage over the property that had increased and it was no longer economic for the Applicant to retain the property. The Tribunal therefore indicated it was minded to continue the application to allow the Applicant's representative to provide more information as regards the Applicant's circumstances.
14. Mr Hall queried with the Respondent if she wished the application continued at which point the Respondent became very upset and explained that she did not wish a continuation and that she thought the Applicant should be allowed to sell her property if she wished. The Respondent said she found it very difficult living under the threat of being evicted and just wanted the proceedings brought to an end.
15. The Respondent said she thought that the Local authority would find her and her daughter somewhere to live and asked that if an order was granted she could be given six weeks to find somewhere.

Findings in Fact

16. The Respondent has been a tenant in the property since about 2017.
17. The Respondent entered into a new private residential tenancy agreement commencing on 1 March 2023 following the breakdown in her marriage and her separation from her husband.
18. The current rent for the property is £650.00 per calendar month and the Respondent's rent is paid up to date.
19. The Applicant was served with a Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act by email on 7 November 2023.
20. The Respondent was advised that the Notice to Leave was sent as a result of the Applicant's mortgage increasing and the Applicant running at a loss every month.
21. Intimation of the proceedings was sent to Perth & Kinross Council by way of a Section 11 Notice by email on 7 February 2024.

22. The Respondent lives in the property with her 12-year-old daughter.
23. The Respondent's daughter attends a local school.
24. The Respondent works locally.
25. The Respondent has applied to Perth & Kinross Council for housing but has not yet been offered accommodation.
26. The Respondent did not oppose the order being granted.

Reasons for Decision

27. The Tribunal was satisfied from the written representations and documents produced together with the oral submissions from both Mr Hall and the Respondent that the parties entered into a new Private Residential Tenancy that commenced on 1 March 2023 at a rent of £650.00 per calendar month. The Tribunal was also satisfied that it is the Applicant's intention to sell the property once she obtains vacant possession. The Tribunal was satisfied from the documents produced that the Respondent was properly served with a valid Notice to Leave and that proper intimation of the proceedings had been given to Perth & Kinross Council.
28. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that neither party took any issue with the other party's position as stated by them. The Tribunal therefore had to balance the needs of the Applicant with the needs of the Respondent in arriving at a decision. As indicated above the Tribunal did have some concerns that the information as regards the Applicant's financial circumstances was somewhat lacking and had considered continuing the application in order to obtain further information. However, it was apparent to the Tribunal that the proceedings were having an adverse effect upon the Respondent who clearly wished them to be concluded and who from the commencement of the CMD had said she was not opposing the order being granted. Therefore, in the circumstances and taking account of the email submitted by the Applicant's representatives at the CMD, the Tribunal considered it was reasonable to grant the order sought but with a short delay of six weeks before the order came into effect in order to give the Respondent some additional time to find suitable alternative accommodation.

Decision

29. The Tribunal being satisfied it had sufficient information before it to make a decision finds the Applicant entitled to an order for the eviction of the Respondent from the property.

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 Harding](#)

**Graham Harding
Legal Member/Chair**

**1 August 2024
Date**