

**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/24/2197**

**Re: Property at 88 Thriepland Wynd, Perth, PH1 1RH (“the Property”)**

**Parties:**

**Ms Fiona Meikle, 16 Balfour Place, Carnoustie, Angus, DD7 7AH (“the Applicant”)**

**Mr Aziz Ur Rehman, Mrs Rehana Farhat and Mr Laeeq Ur Rehman, all 88 Thriepland Wynd, Perth, PH1 1RH (“the Respondents”)**

**Tribunal Members:**

**George Clark (Legal Member) and Carol Jones (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it could decide the application without a Hearing and that it was reasonable to issue an Eviction Order against the Respondents**

**Background**

1. By application dated 14 May 2024, the Applicant sought an Eviction Order against the Respondents under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 1 of Schedule 3 to the 2016 Act, namely that the landlord intends to sell the Property.
2. The application was accompanied by copies of a Notice to Leave dated 19 December 2023 advising the Respondents that an application to the Tribunal under Ground 1 would not be made before 15 March 2024 and a letter from a solicitor estate agent setting out their estimate of sale value of the Property and a description of their services and fees. The Applicant also provided the Tribunal with a copy of the Private Residential Tenancy Agreement between the Parties, which commenced on 10 June 2019 at a rent of £900 per month.
3. On 9 August 2024, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 30 August 2024.
4. On 14 August 2024, the Respondents provided the Tribunal with a copy of a letter of 8 August that they had received from the Applicant, intimating her

intention to increase the rent with effect from 10 November 2024. In that letter, the Applicant stated that she hoped the Tribunal process would go through smoothly and that the Property would be vacant by November, but in the event that it was not, the new level of rent would apply. She appreciated that this was a stressful time for the Respondents but asked them to please understand that things have become very difficult for her and she is not a professional landlord. She hoped their house search was going well and that they could all go forward in a positive and open way.

5. In their representations, the Respondents told the Tribunal that they need a house with two toilets, due to medical issues affecting one of them. There was a lot of mental stress on the family.

### **Case Management Discussion**

6. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 11 September 2024. All Parties were present, and Mr Aziz Ur Rehman spoke for all three Respondents.
7. The Applicant told the Tribunal that she needs to sell the Property. It was formerly her home, and she rented it out when she moved to Angus for family reasons. She is living in a tiny house there and requires to sell the Property in order to purchase something larger for herself. She said she first indicated her wishes to the family in March 2023 and again told the Respondents in June 2023 of her plans and gave them four months' notice. They chose not to move out, so she consulted a solicitor and a formal Notice to Leave was given in December 2023. When this expired, she allowed the Respondents a further two months to find a house before eventually applying to the Tribunal for an Eviction Order. Her family situation is very stressful, and she has too much on her shoulders. She does not own any other rented properties. She understood it was stressful for the Respondents but felt that they have had a long time to find alternative accommodation. This process would enable them to be considered for a council house. The Applicant confirmed that the Respondents have been good tenants, paying their rent on time and looking after the Property well.
8. The Respondents told the Tribunal that they have been actively looking for alternative accommodation in both the private and public sector, but the private rental market is extremely competitive, and they have, to date, been unsuccessful. Five people, including Mr Aziz Ur Rehman's 17-year-old daughter, live in the Property, which has four bedrooms. They spoke to the Council last week but, so far, all they had been offered was a two-bedroom flat. They accepted that the Applicant was a good landlord and that she needed to have the Property back, but they had nowhere to go. As soon as they could find another house, they would move out. A longer period of notice would be helpful to them.

### **Reasons for Decision**

9. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a

Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.

10. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies. Ground 1 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the landlord intends to sell the let property and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell and intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts. Ground 1 goes on to state that evidence tending to show that the landlord has that intention includes (for example) a letter of engagement from a solicitor or estate agent concerning the sale, or a recently prepared Home Report.
11. The Tribunal was satisfied from the evidence provided by the Applicant and the letting agents that the Applicant intends to sell the Property. Accordingly, the only matter for the Tribunal to decide was whether it would be reasonable to issue an Eviction Order.
12. The Tribunal noted in particular that the Property is not an investment for the Applicant. It was her home, and she only let it out when she moved to Angus for family reasons. She now needs a larger house for herself and can only achieve that if she sells the Property. It is presently occupied by two married couples and the daughter of one of the couples. It appears that, in order to live together, they will require at least three bedrooms. The Tribunal noted that the Applicant first indicated to them her intention to sell more than 15 months ago, that she did not then serve the formal Notice to Leave for six months and that she held off applying to the Tribunal for two months after the date specified in the Notice to Leave. The Tribunal accepts that it is difficult to secure private rented accommodation at present and that the Respondents have been trying to do so, but, on balance, the Tribunal's view was that the Applicant had been very generous in respect of the informal and formal notice she had given and the additional time she had allowed before applying to the Tribunal. An Eviction Order would enable the Respondents to have access to support services from the local authority. The Tribunal recognised, however, that finding suitable accommodation in the private or the public sector would be challenging and, for that reason, decided that its Order should not be capable of being enforced immediately after the appeal period comes to an end.
13. Having considered carefully all the evidence before it, the Tribunal decided on balance that it would be reasonable to issue an Eviction Order, but that it should not be enforceable earlier than 10 January 2025.

## 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.

George Clark

11 September 2024

Legal Member/Chair

Date: ~~11 September 2024~~