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/24/1677

Re: Property at 289 CROFTHILL ROAD, GLASGOW, G44 5NL ("the Property")

Parties:

Mr Keith Pettit and Ms Carol Pettit, CO Lemon Property, 272 Bath Street, Glasgow, G2 4JR ("the Applicant")

Ms Danielle Hutchison, 289 CROFTHILL ROAD, GLASGOW, G44 5NL ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:-

At the Case Management Discussion ("CMD"), which took place by telephone conference on 12 September 2024, the Applicants were represented by Ms Alison Wright, Lemon property, Glasgow. The Respondent was neither present nor represented and had lodged no written representations.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:-

The Tribunal noted the following background:-

i. The Applicants leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced 12 June 2021.

- ii. On 2 November 2023, the Applicants served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 29 January 2024.
- iii. The Notice to Leave proceeds upon Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").
- iv. The Applicants have served on Glasgow City Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD Ms Wright for the Applicants made the following oral submissions to supplement the application and supporting papers already lodged:-

- i. The Respondent is still in occupation of the Property with her four children aged 15, 9 and 6 years and a newborn baby.
- ii. The Respondent's partner is not believed to be living in the Property now.
- iii. The Respondent has family in the area but issues with her ex-partner mean that she wishes to relocate.
- iv. There are no health issues affecting the Respondent or her children.
- v. The Respondent works part-time as a cleaner and is in receipt of state benefits.
- vi. Generally, the Respondent pays her rent directly. She has been a good payer. However, she has made no payments since 12 October 2023. She seemed to think that might assist in her quest to be rehomed.
- vii. The total rent arrears due as at the CMD are £7050.22.
- viii. The Respondent previously advised Ms Wright that she no longer wishes to live in the Property. She has applied to Glasgow City Council and South Lanarkshire Council for accommodation and has been told she will be in a better position to be housed once an eviction order has been granted.
- ix. The Respondent also stated that she would not be paying rent and needs an order from the Tribunal to move forwards. She needs more space and wants to move out of the area for personal reasons.
- x. The Property has 2 bedrooms and a floored attic which the Respondent uses as her own bedroom.
- xi. Ms Wright had sought to find the Respondent a bigger property in the private sector but these are scarce and the rent too high.
- xii. Ms Wright last spoke with the Respondent 2 weeks ago. They have enjoyed a good relationship over the tenancy.
- xiii. The Second Applicant is the mother of the First Applicant. The Second Applicant is 79 years of age. Her husband (the First Applicant's father) is 82 years of age.
- xiv. The First Applicant previously worked abroad but gave that up due to his father's ill health.
- xv. The Second Applicant requires the proceeds of sale of the Property for her and her husband's living expenses and to make his life as comfortable as possible. The Property is running at a loss due to the Respondent's failure to pay rent. This has impacted on the ability of the Second Applicant and her husband to meet their own living costs.
- xvi. The First and Second Applicant own together another two properties both of which are also being sold for the same reasons. The First Applicant owns outright another 8 properties. There are no plans for these to be sold.
- xvii. The Applicants seek an eviction order.

The Tribunal thereafter adjourned to consider the written and oral submissions for the Applicants.

Findings in Fact

The Tribunal made the following findings in fact:-

- i. The Applicants leased the Property to the Respondent in terms of the PRT that commenced 12 June 2021.
- v. On 2 November 2023, the Applicants served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 29 January 2024.
- vi. The Notice to Leave proceeds upon Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").
- vii. The Applicants have served on Glasgow City Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- viii. The Respondent is still in occupation of the Property with her four children aged 15, 9 and 6 years and a newborn baby.
- ii. The Respondent's partner is not believed to be living in the Property now.
- iii. The Respondent has family in the area but issues with her ex-partner mean that she wishes to relocate.
- iv. There are no health issues affecting the Respondent or her children.
- v. The Respondent works part-time as a cleaner and is in receipt of state benefits.
- vi. The Respondent has previously been a good payer but has made no payments since 12 October 2023.
- vii. The total rent arrears due as at the CMD are £7050.22.
- viii. The Respondent previously advised Ms Wright that she no longer wishes to live in the Property.
- ix. The Respondent has applied to Glasgow City Council and South Lanarkshire Council for accommodation and has been told she will be in a better position to be housed once an eviction order has been granted.
- x. The Property has 2 bedrooms and a floored attic which the Respondent uses as her own bedroom.
- xi. Ms Wright had sought to find the Respondent a bigger property in the private sector but these are scarce and the rent too high.
- xii. Ms Wright last spoke with the Respondent 2 weeks ago. They have enjoyed a good relationship over the tenancy.
- xiii. The Second Applicant is the mother of the First Applicant. The Second Applicant is 79 years of age. Her husband (the First Applicant's father) is 82 years of age.
- xiv. The First Applicant previously worked abroad but gave that up due to his father's ill health. He has throat cancer.
- xv. The Second Applicant requires the proceeds of sale of the Property for her and her husband's living expenses and to make his life as comfortable as possible. The Property is running at a loss due to the Respondent's failure to pay rent. This has impacted on the ability of the Second Applicant and her husband to meet their own living costs.
- xvi. The First and Second Applicant own together another two properties both of which are also being sold for the same reasons.
- xvii. The First Applicant owns outright another 8 properties. There are no plans for these to be sold.

Reasons for Decision

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicants within the application papers and orally by Ms Wright at the CMD was not challenged and was accepted by the Tribunal.

The application proceeds upon ground 1 of Schedule 3 of the 2016 Act.

Ground 1 states:-

- "(1) It is an eviction ground that the landlord intends to sell the let property.
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—
 - (a) is entitled to sell the let property,
 - (b) 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
 - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.
- (3) Evidence tending to show that the landlord has the intention mentioned in subparagraph (2)(b) includes (for example)—
 - (a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,
 - (b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market."

The Applicants are entitled to sell the Property in terms of sub-paragraph 2(a), being the heritable proprietors thereof.

Sub-paragraph 2(b) requires that the Applicants intend to sell the Property for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it. Sub-paragraph 3 gives examples of the evidence that might be produced to show the landlord has the intention described in sub-paragraph 2(b). In this instance the Applicants rely upon a letter of Select Surveyors Limited dated 27 October 2023 in terms of which Select Surveyors Limited offer to prepare a Home Report and provide an indicative valuation of the Property. The Tribunal accepts this document as sufficient to meet the terms of sub-paragraph 2(b).

The Tribunal also requires to be satisfied that it is reasonable to issue an eviction order in terms of sub-paragraph 2(c). The Tribunal took into account the following:-

i.

On that basis the Tribunal considered it reasonable to grant an eviction order.

Decision

The Tribunal granted an eviction order in favour of the Applicants.

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.

Gillian Buchanan

	12 September 2024
Legal Member/Chair	Date .