



**Decision 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/24/1021**

**Re: Property at 55 Clachan Road, Rosneath, G84 0RJ (“the Property”)**

**Parties:**

**John Wright, Flat 1/3 30 Handel Place, Hutchesontown, Laurieston, Glasgow, G5 0TP (“the Applicant”)**

**Claire Hall, 55 Clachan Road, Rosneath, G84 0RJ (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member) and Ann Moore (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction relying on ground 1 (landlord intends to sell) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The Tribunal determined that it was reasonable to suspend enforcement of the order for a period of 4 months from the date of the hearing.**

**Background**

1. By application submitted on 29 February 2024 the applicant seeks an order for eviction on the ground that he intends to sell the property. The application was heard alongside conjoined application FTS/HPC/CV/1022 seeking an order for payment of £4074.03 in respect of arrears of rent.
2. The applicant lodged the following documents with the application:
  - Copy tenancy agreement
  - Rent statements
  - Copy correspondence/text messages between parties

- Sole selling rights agreement in favour of Clyde Property
3. The respondent lodged the following documents in advance of the case management discussion:
    - Copy correspondence/text messages between parties
    - Correspondence with Argyll and Bute Council relating to her housing application
    - Correspondence with Home Argyll Housing Association relating to her housing application
    - Correspondence with private letting agents
  4. A case management discussion (“cmd”) was assigned for 16 September 2024

#### **Case management discussion – 16 September 2024- teleconference**

5. The applicant was represented by Ms Campbell-Hynd, Solicitor, TCH Law. The respondent appeared on her own behalf.
6. Ms Campbell-Hynd sought an order for eviction relying on ground 1. She stated that the applicant’s intention remained to sell the property. She referred to the to the extensive arrears in the property which were now in excess of £8300 in relation to the reasonableness of granting an order. She also highlighted that the respondent had paid no rent since December 2023 and had an extended period of notice.
7. The respondent stated that she did not oppose an order for eviction being granted under ground 1. However, she sought an extended period before the order became enforceable in order that she has time to secure alternative accommodation.
8. Ms Hall stated that she resided with her 3 young children. She is employed as a childcare and education worker. She works at the local school in Roseneath which her children all attend. Ms Hall explained that she had applied for housing assistance from the local authority. Due to family circumstances, she was limited in the areas she could move to. She advised that she is currently at the top of the waiting list for a local property in Roseneath and although she could not specify when a property would become available it was likely that 5 months would be sufficient for her to be offered a suitable property. Ms Hall explained that there was a chronic shortage of suitable properties in the local area. She

had been searching for accommodation since she had received notice without success. Ms Hall had also sought advice from advice agencies and submitted that she had done everything she could to obtain accommodation.

9. Ms Campbell-Hynd stated that the respondent was likely to take a pragmatic approach to allowing the respondent some time to find alternative accommodation however in her view 5 months was an excessive amount of time, particularly given the respondent's failure to pay rent since December 2023.
10. The respondent stated that in the event that she was given more time she would commence payment of the rent in the meantime. She also made an offer to repay the arrears in respect of the conjoined arrears action.
11. The respondent raised issues relating to disrepair in the property. These were disputed by Ms Campbell-Hynd. It was clear that the relationship between the parties was poor. The Tribunal determined that the issues raised in relation to disrepair had limited relevance to the present application which was unopposed.

### **Findings in fact and law**

12. Parties entered into a private rented tenancy agreement with a commencement date of 29 July 2022.
13. The applicant is the sole owner of the property.
14. The applicant intends to sell the property.
15. The respondent is on the local authority waiting list for housing
16. The respondent has been actively seeking alternative accommodation since notice to leave was served.
17. The respondent is employed as a childcare and education provider
18. The respondent resides with her 3 young children
19. The respondent has rent arrears in excess of £8300 in the property
20. It is reasonable to grant an order for eviction
21. It is reasonable to vary the date of enforcement of the eviction order until 16 January 2025.

### **Reasons for the decision**

22. 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 sub-paragraph (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.*

23. The Tribunal accepted the evidence that the applicant intended to sell the property. This was not disputed by the respondent.

24. The respondent did not oppose the order for eviction being granted and made no objection to the reasonableness of the order being granted.

25. In relation to the respondent's request to vary the date of execution to allow a period of 5 months for her to find alternative accommodation the Tribunal determined that 4 months was a reasonable period to defer execution. The Tribunal gave weight to the fact that the respondent had been active in her search for accommodation and had produced documents showing that she had approached social and private housing providers. The Tribunal accepted the respondent's evidence that she was at the top of the waiting list for housing in the local area and was reasonably confident that accommodation would be provided in the near future. The Tribunal gave weight to the fact that the respondent was not defending the action and that she was in employment and lived with her three children. The Tribunal took into account that the notice to leave had been served on 15 November 2023 and that the respondent had

been aware of the applicant's intentions for some time. The Tribunal also gave weight to the high rent arrears and the risk that arrears would continue to rise while the respondent resided in the property. The Tribunal determined that in light of the foregoing factors 4 months was a reasonable period of time to allow the respondent to remove 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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

**Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.**

# M-C Kelly

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Legal Member/Chair

16 September 2024 \_\_\_\_\_  
Date