



**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/24/0291

Re: Property at 0/2 7 Blythswood Drive, Paisley, PA3 2ET ("the Property")

Parties:

Panesar Properties Ltd, 14 West Chapelton Crescent, Glasgow, G61 2DE ("the Applicant")

Miss Moira Anne Adams, 0/2 7 Blythswood Drive, Paisley, PA3 2ET ("the Respondent")

Tribunal Members:

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

Decision (in absence of the Respondent)

At the Case Management Discussion ("CMD"), which took place by telephone conference on 1 October 2024, the Applicant was represented by Mr Finlay Dunsmore of Let IT, Glasgow. The Respondent was neither present nor represented.

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:-

Background

A CMD had previously taken place on 3 June 2024. That CMD was adjourned to allow the Applicant to produce detail and documentation to support the application for an eviction order, in particular to provide financial detail and vouching to evidence why it is financially prohibitive for the Applicant to retain the Property.

The adjournment also allowed the Respondent and/or her representative to attend the adjourned CMD.

The CMD on 1 October 2024

Prior to the CMD and by email dated 19 June 2024 Mr Dunsmore for the Applicant submitted additional documentation.

For the Applicant

At the CMD Mr Dunsmore made the following submissions:-

- i. He has not recently spoken to the Respondent's Social Worker, Ashley Cochrane. However, when he was last in contact with her at the end of August she indicated that the Respondent had been in and out of hospital. She has mental health and physical health issues.
- ii. The Respondent requires supported accommodation provided by the local authority.
- iii. The Applicant seeks an eviction order.
- iv. The email from Mark Mooney dated 18 September 2023 relates to a loan provided by Bradford & Bingley. The email narrates that in exchange for 40% of the net sale profits on the sale of the Property, the "charge" on the Property would be released.
- v. This loan is the Term Loan of £60,357 referred to in Mr Panesar's letter dated 10 June 2024. The loan is due for repayment in November 2026.
- vi. Mr Panesar's letter refers to another residential property leased at 51 Causeyside Street. Mr Dunsmore said Mr Panesar manages that property himself.
- vii. In calculating his total net income Mr Panesar has not allowed anything for maintenance costs, safety checks or the like.
- viii. The Respondent is up to date with her rent which is paid by Housing Benefit.
- ix. Mr Dunsmore presumed the rent paid by the tenant of 51 Causeyside Street is also up to date. He did not know if the Term Loan was also secured over that property.
- x. Mr Dunsmore confirmed that the commercial unit at St Maurices Gate is leased to Panesar Properties Limited. He did not know how long that lease had left to run.
- xi. As far as Mr Dunsmore is aware the Respondent has applied to the Council and other housing associations in the area for alternative accommodation.

Findings in Fact

The Tribunal made the following findings in fact:-

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 15 March 2019.
- iii. The rent payable in terms of the PRT was originally £365 per calendar month payable in advance on the 1st day of each month.
- iv. The rent increased to £375 per month from 15 July 2023.
- v. The Respondent also paid to the Applicant a deposit of £465.
- vi. The deposit is still held with Safe Deposits Scotland.
- vii. On 2 August 2023, the Applicant served on the Respondent by recorded delivery post a Notice to Leave requiring the Respondent to remove from the Property by 29 October 2023 on the basis that the Applicant intends to sell the Property.
- viii. The Applicant has served on Renfrewshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- ix. The Respondent is still in occupation of the Property.
- x. She lives alone in the Property and was born in 1962.
- xi. Evidence of the Applicant's intention to sell is the email from Graeme W. McGowan of MSM Solicitors, Paisley dated 11 June 2024 which states that Mr

- McGowan is instructed by Mr Panesar in the sale of the Property and a purchaser is secured such that the transaction will settle once vacant possession is obtained.
- xii. The email from Mark Mooney dated 18 September 2023 relates to a loan provided by Bradford & Bingley to the Applicant. The email narrates that in exchange for 40% of the net sale profits on the sale of the Property, the "charge" on the Property would be released. This loan is the Term Loan of £60,357 referred to in Mr Panesar's letter dated 10 June 2024.
 - xiii. The Term Loan is due for repayment in November 2026.
 - xiv. The Applicant owns another residential property leased at 51 Causeyside Street.
 - xv. The Applicant also leases the commercial unit at St Maurices Gate which is vacant.
 - xvi. The Applicant's total income is £1057.50 per month from the Property and 51 Causeyside.
 - xvii. The Applicant's outgoings total £2548.10 per month being the monthly Term Loan repayments of £329.44 per month and the rent due on the commercial unit at St Maurices Gate.
 - xviii. There is a deficit of income against outgoings in a sum of £1490.60.
 - xix. The Property is a one bedroom ground floor flat.
 - xx. The Respondent has been dealing with Renfrewshire Council.
 - xxi. Mr Tait at the Homeless Unit of the Council said the Respondent cannot be housed until an eviction order is granted.
 - xxii. The Respondent had been in and out of hospital. She has various health issues.
 - xxiii. The Respondent requires supported accommodation provided by the local authority.

Reasons for Decision

As previously stated, 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 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."*

The Applicant is entitled to sell the Property in terms of sub-paragraph 2(a), being the heritable proprietor thereof.

Sub-paragraph 2(b) requires that the Applicant 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 Applicant relies upon and the tribunal accepts as sufficient an email from Graeme W. McGowan of MSM Solicitors, Paisley dated 11 June 2024 which states that Mr McGowan is instructed by Mr Panesar in the sale of the Property and a purchaser is secured such that the transaction will settle once vacant possession is obtained.

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. Based on the information provided, the Applicant's finances are strained and the Tribunal cannot compel the Applicant to continue the tenancy where to do so would be to its financial detriment as would appear to be the case.
- ii. The Respondent has not participated in the CMD. The submissions of the Applicant are not challenged and are accepted by the Tribunal.
- iii. The absence of the Respondent may be explained by her desire to secure alternative accommodation in the public sector for which an eviction order is required in order that her applications for such accommodation can be progressed.

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

Decision

The Tribunal grants an eviction order against the Respondent in favour of the Applicant.

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 Buchanan

Legal Member/Chair

1 October 2024
Date