



**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 (“the Act”)**

**Chamber Ref:**

**Re: Property at 18 Abbotsford Rise, Livingston, West Lothian, EH54 6LS (“the Property”)**

**Parties:**

**Mr Lee Daron Gower, 22 Linnet Brae, Ladywell, Livingston, West Lothian, EH54 6UE (“the Applicant”)**

**Ms Claire Hunter, 18 Abbotsford Rise, Livingston, West Lothian, EH54 6LS (“the Respondent”)**

**Tribunal Members:**

**Steven Quither (Legal Member) and Gordon Laurie (Ordinary Member)**

**DECISION**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) UNANIMOUSLY determined to grant the order for eviction sought by the Applicant, not to be executed before 12 noon on 16 December 2024**

**BACKGROUND**

1. This is an application to bring to an end a Private Residential Tenancy Agreement (“PRT”) in respect of the Property between a John Edward Slade and the Respondent commencing 30 July 2018. The original application to the Tribunal dated and lodged on 18 January 2024 by the Almond Valley Property Centre, Bathgate (“AV”) was in Mr Slade’s name, but subsequent clarification confirmed the Property was in fact registered as belonging to the Applicant and an amended application in the Applicant’s name, also dated 18 January 2024, was duly lodged on 23 May 2024. The Applicant and AV further clarified by emails of 20 March, 23 April and 16 October 2024 that Mr Slade had assisted the Applicant with funding for his purchase of the Property and had the Applicant’s authority to let and now sell the Property. The Tribunal accepted the

amended application by Notice of Acceptance of 13 June 2024 and a Case Management Discussion (“CMD”) was duly fixed for 21 October 2024.

2. Prior to the CMD, preliminary consideration of the supporting documentation for this application confirmed that Notice to Leave (“NTL”) (apparently erroneously) dated 1 October 2023 was sent by email to and presumably received by the Respondent on 29 September 2023, based on the Applicant’s intention to sell the Property (Ground 1 of Schedule 3 of the Act). The appropriate local authority had also been notified of the application in terms of s11 of the Homelessness etc. (Scotland) Act 2003 and acknowledged receipt of same on 18 January, 2024.
3. Prior to the CMD also, the Tribunal sought clarification about steps taken by the Applicant to market the Property for sale, since all that appeared to be in the case file in that regard was a short email from Remax, Livingston, dated 23 April 2024. Along with the Applicant’s said email of 16 October 2024 was written confirmation from Remax that they had been appointed to sell the Property.
4. At all times the Tribunal was aware that in relation to this eviction case, it required to be satisfied not only that the formal requirements regarding same had been complied with but also that it was reasonable to make the order for repossession.

#### **CASE MANAGEMENT DISCUSSION on 21 OCTOBER 2024**

5. The CMD took place by teleconference and duly commenced at 10am. The Applicant was represented by Shirley Hepworth from AV (with Adrian Kay from there also attending) and the Respondent attended with her mother, Janette Hunter, as a supporter.
6. The Respondent brought the Tribunal’s attention to an email she had sent just prior to the CMD, attaching a letter from a consultant at NHS West Lothian in respect of certain health issues and also from West Lothian Housing Register (“WL”) in respect of an ongoing housing application. The Tribunal was accordingly able to consider both of these before the CMD commenced.
7. In response to questions from the Tribunal, Ms Hepworth and Mr Kay advised and confirmed:--  
The Applicant was the stepson of Mr Slade and he was acting on Mr Slade’s behalf, as opposed to the other way round.  
Mr Slade was now somewhat elderly and not perhaps in the best of health and simply wished to realise the value of a capital asset ie the Property.  
Mr Slade was, in effect, the true owner of the Property and proceeds of sale would be going to him.  
Mr Kay did not know why the Landlord Registration Number contained in the PRT related to him, as opposed to either the Applicant or Mr Slade and thought this was simply a mistake, since he was not involved in any way with the Property and certainly not as Landlord.  
There were no other properties to be considered, although there had been previously, prior to their sale.

The Property would be placed on the market for sale just as soon as possible and the 30 day period before any order could be executed would not cause any difficulty, neither would the extended period to 16 December sought by the Respondent.

8. In response to questions from the Tribunal, the Respondent advised and confirmed:--  
She was no longer opposing the application, but was seeking for any order not to be executed till 16 December.  
She had a pending viewing of an Ark Housing Association property.  
She understood if the Tribunal granted the order sought, she might receive improved priority for a house with WL.  
She had an 8 year old son who was presently at school and in addition she was consulting with a particular medical practitioner, so if she knew she could stay in the Property till 16 December, she could make suitable arrangements regarding any consequent change of school and her own medical care.
9. Neither party questioned the other nor wished to make any closing submissions as such to the Tribunal.

#### **FINDINGS IN FACT**

10. The Respondent and John Edward Slade, by arrangement with the Applicant, entered into a PRT for the Property commencing 30 July 2018. Mr Slade had the Applicant's authority and was acting on his behalf in doing so. He had similar authority to commence these proceedings and place the Property up for sale, although the Applicant is the registered owner of the Property.
11. Appropriate Notice to Leave has been received by the Respondent and s11 Notice received by the relevant local authority.
12. The Applicant, along with Mr Slade, now intends to sell the Property and Remax Estate Agents have been instructed to do, with any free proceeds of sale being retained by Mr Slade.
13. The Property is to be put up for sale just as soon as the Respondent ceases to occupy it and, in any event, within 3 months.
14. It is reasonable to grant the order for eviction now sought by the Applicant.

#### **REASONS FOR DECISION**

15. The Tribunal was satisfied the Applicant intended to sell the Property, based on the information in the case file and provided at the CMD. It took the view that the Applicant was entitled to reach such agreement with Mr Slade as suited both of them. Confirmation of the proposed sale was evident from the Remax letter referred to. In any event, the application was not opposed by the Respondent. In these circumstances, Ground 1 was made out.

16. In assessing whether it was reasonable to grant the order, the Tribunal took account of the close relationship between Mr Slade and the Applicant, as evidenced by Mr Slade's financial assistance to the Applicant regarding the Property. The Tribunal considered it reasonable for them to exercise their prerogative to realise a capital asset. The Tribunal also took into account, as previously stated, the fact that the application was not opposed by the Respondent.
17. The Tribunal considered it just to allow the Respondent the additional time she requested for hopefully sorting out new accommodation and making necessary arrangements regarding her own healthcare and her son's schooling. The Applicant very fairly did not have any opposition to that request and accordingly the Tribunal is content to issue its order in appropriate terms.

### **DECISION**

18. To grant the order for eviction sought by the Applicant, not to be executed before 12 noon on 16 December 2024.

### **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.**

**SR QUITHER**

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**Legal Member/Chair**

**21 OCTOBER 2024**

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**Date**