



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/24/1253

Re: Property at 3/L, 281 Hawkhill, Dundee, DD2 1DN (“the Property”)

Parties:

Mrs Karen Kennedy, 14 Clayhills Drive, Dundee, DD2 1SX (“the Applicant”)

Miss Olivia Laybourn, 3/L, 281 Hawkhill, Dundee, DD2 1DN (“the Respondent”)

Tribunal Members:

Andrew Cowan (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction should be granted in favour of the Applicant.

Background

1. This is an application by the Applicant for an eviction order in relation to a Private Residential Tenancy (“PRT”) in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The PRT had been granted by the Applicant to the Respondents commencing on 14 August 2020.
2. The application was dated 13 March 2024 and lodged with the Tribunal on or around that date.
3. The application relied upon a Notice to Leave dated 7 November 2023, issued in terms of section 50 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”), served upon the Respondents by email, all in accordance with the provisions of the PRT. The Notice relied upon Ground 1 of Schedule 3 Part 1 of the 2016 Act, being that “the landlord intends to sell”. The Notice to Leave

intimated that an application to the Tribunal would not be made before 5 February 2024.

4. Evidence of a section 11 notice in terms of the *Homelessness Etc. (Scotland) Act 2003* served upon Dundee City Council on 13 March 2024 was included in the application papers.
5. The application papers included a letter dated 17 May 2025 from Gilson Gray Solicitors which confirmed that they had been instructed by The Applicant to market and sell the Property. The Applicant had also lodged written medical evidence in relation to both her health and the health of her husband.

The Hearing

6. The matter called for a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 15 November 2024 at 1000.
7. The Applicant joined the conference call, along with her representative, Mr Brian Webster of Downfield Property, letting agents. The Respondent also joined the conference call.
8. At the CMD, the Applicant confirmed that the application for eviction was insisted upon. The Applicant explained to the Tribunal that her husband has a terminal illness and that she also has a serious illness. She explained that she wished to sell the Property to realise the capital value of that Property and to enable the Applicant and her husband the opportunity to make best use of the funds. The Applicant confirmed that she intended to sell the Property as quickly as possible after the Respondent had vacated the Property. The Applicant has exhibited to the tribunal a letter from Gilson Gray, solicitors, which confirms that they instructed to proceed to market the Property for sale.
9. The Respondent confirmed to the Tribunal that she did not seek to oppose the granting of an eviction order. Whilst she had not taken specific advice in relation to the application she had spoken with advisors at Dundee City Council. The Respondent had been looking for alternative accommodation but had not yet been able to secure any offers of such alternative housing.
10. The Applicant’s representative confirmed that the local authority will not make the Respondent an offer of alternative housing unless the Tribunal has granted an order for eviction in relation to the Property.
11. The Respondent requested that the Tribunal delay the enforcement of the eviction order for a period of time whilst she secured alternative accommodation. The Respondent initially suggested the delay should be until the end of 2024, and then suggested a longer delay of up to three months. The Applicant confirmed that she did not oppose a delay in enforcement of the

order, although she would prefer it was delayed by a shorter period than that suggested by the Respondent.

Findings in Fact and Law

12. The Applicant let the Property to the Respondent under a Private Residential Tenancy which commenced on 14 August 2020.
13. Notice to Leave was emailed to the Respondent on 8 November 2023. The notice to leave relied upon Ground 1 of Schedule 3 part 1 of the 2016 Act
14. A section 11 notice in the required terms of the *Homelessness Etc. (Scotland) Act 2003* was served upon Dundee City Council on the Applicant's behalf on 13 March 2024.
15. The Applicant has instructed Gilson Gray, solicitors, to market and sell the Property.
16. The Applicant intends to sell the Property, and it is reasonable that an order for eviction is granted

Reasons for Decision

17. The application is in terms of rule 109, being an order for eviction of a PRT. We were satisfied on the basis of the application and supporting papers that the Notice to Leave had been competently drafted and served upon the Respondent.
18. Ground 1 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:

(1.)...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.

(2) 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.

20. The Applicant has engaged agents to sell the Property. The Applicant wishes to sell the Property as she wished to realise the value of the Property to allow her, and her husband, to utilise the funds realised for other purposes.
21. The Tribunal also considered whether it was reasonable to issue an eviction order.

The Tribunal accept that the Applicant wishes to sell the for the reasons given. The Respondent does not seek to oppose the granting of the eviction order. The Respondent is more likely to be offered alternative accommodation by the local authority, or other housing providers, if an eviction order has been granted.

In all the circumstances the Tribunal are satisfied that it is reasonable to grant an order for eviction.

22. The Tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.
23. The Tribunal consider that in the circumstances of the case it would be appropriate to allow the Respondent time to remove from the Property to allow her the opportunity to seek alternative accommodation. Taking account of the views and wishes of the parties on this point, the Tribunal have determined that the order for possession should not be executed prior to 12 noon on 31 January 2025.

Decision

24. In all circumstances, we grant an order against the Respondent for eviction from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 further to ground 1 of Schedule 3 of that Act.

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.

A.Cowan

15 November 2024

Legal Member/Chair

Date