



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/24/0933**

**Re: Property at 6 Knowetop Crescent, Dumbarton, G82 5AX (“the Property”)**

**Parties:**

**Miss Amanda Lauraine Brown, 11 Oriana Street, Belmont, Perth, Western Australia, 6104, Australia (“the Applicant”)**

**Miss Kimberly Bell, Mr Barry McLaughlin, 6 Knowtop Crescent, Dumbarton, G82 5AX (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member) and Melanie Booth (Ordinary Member)**

**Decision (in absence of the Respondents)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for possession relying on ground 1 (landlord intends to sell) in schedule 3 of the Private Housing (Tenancies) Act 2016.**

**Background**

1. By application dated 4 January 2024 the applicant seeks an order for possession relying on ground 1 (landlord intends to sell).
2. The following documents were lodged with the application:
  - Copy tenancy agreement
  - Section 11 notice
  - Notice to leave and proof of service
  - Copy email correspondence between letting agents and the respondents

- Correspondence with surveyors regarding the property.

### **Case management discussion (“cmd”) – 8 November 2024 – teleconference**

3. The applicant was represented by Ms Bowe, letting agent from McArthur Stanton, letting agents. The respondents were not present or represented. The Tribunal was satisfied that the respondents had been served with the papers and had received proper notice in terms of rule 24.1. The Tribunal proceeded with the cmd in the absence of the respondents in terms of rule 29.
4. Ms Bowe explained that the applicant sought an order for possession relying on ground 1. She stated that the applicant had resided in Australia and had decided to sell the property. Ms Bowe stated that recently the respondent had been diagnosed with significant health problems which were set out in emails submitted to the Tribunal. Ms Bowe stated that after the notice to leave had been served the respondents had refused to allow access to the property to allow a survey to be carried out for the purposes of marketing the property for sale. She confirmed that a separate estate agent had been instructed in relation to the sale.
5. Ms Bowe referred to correspondence which had been lodged which showed that the respondents had sought assistance from the local authority after receiving the notice to leave. They had been advised that the local authority would assist them only after an eviction order was obtained.
6. Ms Bowe stated that there had been no issues with the respondents’ conduct. As far as she was aware both respondents were working. She was aware that the first respondent had been pregnant and had not reached her due date. She was unaware of any other dependent children in the property.

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

7. Parties entered into a private rented tenancy agreement with a commencement date of 28 January 2022.
8. The applicant owns the property.
9. The applicants intend to sell the property.
10. It is reasonable to grant an order for eviction

### **Reasons for the decision**

11. 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.*

12. The Tribunal took into account the written representations and documents lodged together with oral representations at the cmd. The respondents lodged no opposition to the application.

13. The Tribunal accepted that the applicant intends to sell the property as soon as possible. The Tribunal had regard in particular to the email correspondence from the applicant setting out her reasons for seeking to sell the property and her recent ill health. The Tribunal also accepted as genuine the email correspondence which had been lodged showing that the applicant's letting agents had sought to instruct a valuation of the property prior to the property being put on the market. The Tribunal noted that a letter of engagement or homeowners report had not been produced however, correspondence had been produced showing that the respondent's had refused to allow access to the property for the purposes of preparing a report.

14. In relation to whether it was reasonable to grant the order the Tribunal gave weight to the personal circumstances of the applicant and in particular her poor health which was a reason why she wished to sell the property.
15. The Tribunal gave particular weight to the fact that the respondents had taken no steps to oppose the application. The Tribunal took into account the information provided that the first respondent was pregnant however, there was no indication of any other factors which made the respondents particularly vulnerable to the impact of an order being granted.
16. Taking the above factors into account the Tribunal was persuaded that on balance it was reasonable to grant an order for eviction 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.**

# M C Kelly

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Legal Member/Chair

8 November 2024  
Date