



**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/24/0636**

**Re: Property at 11 Craigmochan Ave, Airdrie, ML6 6TJ (“the Property”)**

**Parties:**

**Mrs Camille McWilliams, 73 Drumpellier Ave, Coatbridge, ML5 1JS (“the Applicant”)**

**Mr Rory Kerr, 11 Craigmochan Ave, Airdrie, ML6 6TJ (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member) and Mary Lyden (Ordinary Member)**

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

**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) (Scotland) Act 2016.**

**Background**

1. By application dated 8 February 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 respondent
  - Letter from Property Bureau dated 18 April 2024 confirming instructions to market the property.

### **Case management discussion (“cmd”) – 26 November 2024 – teleconference**

3. The applicant was in attendance with her husband, Martin McWilliams who was also acting as her representative. The respondent was not present or represented. The Tribunal was satisfied that the respondent had been served with the papers and had received proper notice in terms of rule 24.1. A sheriff officers report showed that papers had been personally served on the respondent on 22 October 2024. The Tribunal proceeded with the cmd in the absence of the respondent in terms of rule 29.
4. Mr McWilliams confirmed that the applicant sought an order for eviction relying on ground 1. He stated that the applicant has an interest only mortgage over the property. The repayments due under the mortgage had risen steeply which had a financial impact on the applicant. The increased costs had led to the applicant’s decision to sell the property. Mr McWilliams stated that when the respondent was told about the applicant’s intention to sell the property he had refused to cooperate. Mr McWilliams stated that the applicant initially agreed to extend the notice period for 3 months at the respondent’s request. He stated that the respondent had built up rent arrears after the notice to leave was served however, these had now been resolved. Mr McWilliams stated that the applicant had resided alone in the property. He had been working however, recently rent had been paid by universal credit housing costs. Mr McWilliams advised that the letting agents had recently advised that the respondent attended at their offices where he had returned the keys and advised the letting agents that he had secured a new property and was moving out. Mr McWilliams advised that the letting agents had not visited the property since the respondent had returned the keys however they intended to do so. Mr McWilliams confirmed that the respondent had not given any written notice that he was leaving the property and stated that the letting agents had advised the applicant that she should continue to pursue an eviction order.
5. The applicant confirmed that it was her intention to sell the property. She stated that the mortgage repayments had increased steeply since she purchased the property. The applicant stated that she had initially agreed to extend the notice period given to the respondent however he had then refused to cooperate. The applicant confirmed that the respondent had been receiving universal credit

housing costs however, no rent had been received for the current month. The applicant confirmed that she had emailed a copy of the notice under section 11 of the Homelessness Etc. (Scotland) Act 2016 to the local authority on 2 separate occasions, one on the date that the application was submitted.

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

6. Parties entered into a private rented tenancy agreement with a commencement date of 3 May 2022.
7. The applicant is the owner of the property.
8. The applicant intends to sell the property.
9. The respondent resided alone in the tenancy.
10. A valid notice to leave dated 14 September 2023 was served on the respondent.
11. A notice in terms of section 11 of the Homelessness Etc. (Scotland) Act 2003 was served on the local authority.
12. It is reasonable to grant an order for eviction

### **Reasons for the decision**

13. 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.*

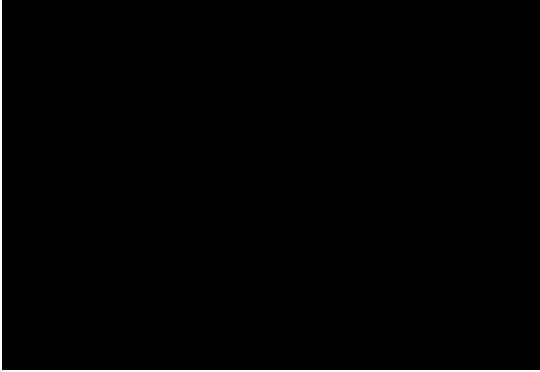
14. The Tribunal took into account the written representations and documents lodged together with oral representations at the cmd. The respondent lodged no opposition to the application.
15. Based on the letter of engagement with estate agents to market the property and the representations of the applicant and Mr McWilliams at the cmd the Tribunal accepted that the applicant had a genuine intention to sell the property.
16. In relation to whether it was reasonable to grant the order the Tribunal gave weight to the personal circumstances of the applicant and the reasons given for her decision to sell the property. The Tribunal gave weight to the fact the expenses associated with the property had increased which was having a financial impact on the applicant. The Tribunal also took into account the information provided that the respondent may have secured alternative accommodation. The Tribunal took into account that a valid notice to leave was served on 14 September 2023 which meant the respondent had over one year's notice of the applicant's intention to sell the property and to find alternative accommodation. The Tribunal gave significant weight to the fact that the respondent had taken no steps to oppose the application.
17. The Tribunal took into account that the applicant had been advised recently that the respondent stated that he had moved out of the property. However there had been no physical confirmation that he had moved out or written confirmation from the respondent that he had obtained alternative accommodation.
18. 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.

## **Decision**

**The Tribunal determined to grant an order for eviction.**

## 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.



27 November 2024 \_\_\_\_\_  
Date