



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 26 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules') in relation to an application for eviction/ possession of a Rented Property in terms of Rule 109 of the Procedure Rules.**

**Chamber Ref: FTS/HPC/EV/24/1777**

**Re: Flat 1-1, 24 Dixon Avenue, Glasgow, G42 8EE ('the Property')**

**Parties:**

**Mrs Gillian Poulton residing at 16 Birkdale Crescent, Glasgow, G68 0JZ ('the Applicant and Landlord')**

**Imran Haq and Keith Hassan, G4 properties Limited ('The Applicant's Representatives')**

**Mr Dusan Demeter residing at Flat 1-1, 24 Dixon Avenue, Glasgow, G42 8EE ('the Respondent and Tenant')**

**Anastasia Kozakova ('The Respondent's daughter and Representative')**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal')**

**Tribunal Members: Jacqui Taylor (Legal Member) Elizabeth Dickson (Ordinary Member)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') determined that the order for possession of the Property be granted.**

## **1. Background**

1.1. The Applicant submitted an application to the Tribunal for eviction/ possession of the Rented Property under section 51(1) of the Private Housing Tenancies (Scotland) Act 2016, in terms of Rule 109 of the Procedure Rules.

1.2 The application was dated 17<sup>th</sup> April 2024. The application states that the ground for eviction was as follows:  
'Ground 1: The Landlord intends to sell the Property.'

1.3 Documents lodged with the Tribunal were:-

- The Private Residential Tenancy Agreement between the parties dated 29<sup>th</sup> November 2019. The commencement date of the tenancy was 29<sup>th</sup> November 2019.
- Notice to Leave dated 11<sup>th</sup> January 2024 advising the Tenant that an application will not be submitted to the Tribunal for an eviction before 7<sup>th</sup> April 2024.
- A copy of the email sent to the Respondent dated 11<sup>th</sup> January 2024 sending him a copy of the Notice to Leave.
- A copy of the email to Glasgow City Council attaching the Section 11 Notice dated 11<sup>th</sup> January 2024.
- Section 11 Notice addressed to Glasgow City Council.
- A letter from Moore Marshall, solicitors dated 4<sup>th</sup> March 2024, confirming that they have been instructed to act in connection with the proposed sale of the Property.

2. By Notice of Acceptance by Nicola Irvine, Convener of the Tribunal, dated 14<sup>th</sup> May 2024, she intimated that she had decided to refer the application (which application paperwork comprises documents received between 17<sup>th</sup> April 2024 and 23<sup>rd</sup> April 2024) to a Tribunal.

3. The Respondent did not provide any written representations.

#### **4. Case Management Discussion**

This case called for a conference call Case Management Discussion (CMD) on 26<sup>th</sup> September 2024.

The Applicant's representative and the Respondent and the Respondent's Representative attended the CMD.

The Tribunal members were Melanie Barbour, Legal Member and Elizabeth Dickson, Ordinary Member.

##### **4.1. Oral Representations by the Applicant's Representative:**

4.1.1 Since 2019 the Respondent's daughters have assisted him with communication, and he believed that she was able to translate for her father today; the daughters are the main point of contact and attend any meeting and communication, there has been no issue with communication for the last 5 years.

4.1.2. The Respondent was a regular attender at the letting agents' office and if there were any issues with the property they would be brought up with the letting agent. Issues were dealt with.

4.1.3 Since the notice to leave was served and evidence of intention to sell was provided the Respondent has withheld rent. Current rent arrears are over £5,351. There is a further payment of rent due on 29 September and rent arrears will rise to £5,876.93p at that time. The last rental payment was a part payment of housing benefit of £133.

4.1.4 Rent has generally always been paid by housing benefit since 2019. When the rent payments stopped the letting agent investigated the matter with the local council and they were advised that there was no longer any claim for the respondent's property. They believed that the respondent's family were now residing somewhere else. The amount of furniture in the property is now sparse. They had attended to do an inspection and they noted a lack of furnishings in the property.

4.1.5 The Respondent has had plenty of time to seek advice, and he had indicated to the letting agents that he had gotten advice, and further that he would not be moving until an order for eviction was granted.

4.1.6 The Applicant had looked at selling the property to an investment company who would take it on with a sitting tenant, however the sale to this company fell through due to the level of arrears.

4.1.7. The Applicant has a mortgage and factor to pay, together with costs of upkeep of the property, and she is out of pocket with the ongoing ownership of it.

4.1.8. In relation to the allegations of the bedbugs, they advised that there is always an issues with the Respondent making claims of bugs and vermin. The property had been let unfurnished. They advised that it was the respondent who had brought in the bedbugs by bringing in second hand furniture to the property. The applicant has attended to all complaints about bugs and vermin as any arose.

4.1.9 The letting agents attended at the property on 10 July 2024 for an inspection, and the respondent did not allow them entry, and advised them he was not leaving until an eviction order was granted.

4.1.10 They said that the respondent's family make up was relevant and they will raise that issue at the hearing.

#### **4.2.Oral Representations by the Respondent's Representative:**

4.2.1 He would like an interpreter

4.2.2 He had not taken advice about his right to defend the application; he would like the chance to get advice

4.2.3 He is disabled.

4.2.3 He had been looking for somewhere else to live.

4.2.4 He does not have anywhere else to live, but the property was in a poor condition with bed bugs, cockroaches, and vermin and because of this he withheld rent. He has no option at present to live anywhere else.

4.2.5 He had been withholding rent due to the condition of the property.

4.2.6 He also had to buy furniture for the property as the furniture was not in a good condition due to the condition of the property. That he had spent over £3,000 buying furniture for the property.

4.2.7 He had nowhere else to live if the order for eviction was granted. He had spoken to different housing organisations for example the Samaritans Housing and they had nothing for him. He indicated that he needed another two months at least to find other accommodation.

4.2.8 He was concerned about being evicted.

4.2.9 The Respondent stated that he does not have a second home.

### **4.3 Outcome of the Case Management Discussion.**

The Tribunal determined that there were matters in dispute between which went to the question of reasonableness and the Tribunal considered that the Respondent should have the opportunity to have an interpreter for any future hearing in order that he can participate in these proceedings.

The Tribunal also determined that the case would proceed to a hearing rather than a further case management hearing. The hearing would consider the question of whether it is reasonable to grant the order for eviction.

The Tribunal noted that no issue was raised about the validity of any of the notices served or the evidence showing intention to sell.

## **5. Direction**

The Tribunal issued a Direction dated 26<sup>th</sup> September 2024 which required the parties to provide a list of any witnesses they intend to call to give evidence at the hearing and a list of productions that they intend to lodge in support of their case together with copies of those productions by 26<sup>th</sup> October 2024. The parties did not lodge any documents in response to the Direction.

## **6. Hearing**

This case called for an inperson hearing at 10am at the Glasgow Tribunal Centre on 11<sup>th</sup> December 2024.

The Applicant's representatives and the Respondent and the Respondent's Representative attended the hearing. Jarka Janackova attended as an interpreter for Mr Demeter.

### **6.1 Oral Representations by the Respondent.**

Mr Demeter confirmed that he was not opposed to the eviction. He required the eviction date to enable him to obtain alternative housing. He required time to move out of the Property and asked for an eviction date of 30<sup>th</sup> January 2025.

## **6.2 Oral Representations by the Applicant.**

Mr Haq explained that Mr Demeter has not made any rent payments since the CMD. The Applicant needs to sell the Property. He advised that he agreed to the eviction date of 30<sup>th</sup> January 2025.

## **7. Decision**

### **7.1. Requirements of Section 109 of the Procedure Rules.**

**(a)** The Tribunal confirmed that the application correctly detailed the requirements of section 109(a) of the Procedure Rules namely:-

- (i) the name, address and registration number of the Landlord.
- (ii) the name and address of the Landlord's representative.
- (iii) the name and address of the Tenant.
- (iv) the ground of eviction. The ground stated in the application is that the Applicant intends to sell the Property.

The Tribunal accepted that this is Ground 1 of Schedule 3 of the 2016 Act.

**(b)** The Tribunal confirmed that the application correctly detailed the requirements of Section 109(b) of the Procedure Rules:

- (i) evidence showing that the eviction ground or grounds had been met.

The letter from Moore Marshall Solicitors was sufficient in its terms.

- (ii) a copy of the notice to leave given to the Tenant as required by section 52(3) of the 2016 Act.

The Tribunal confirmed that the Notice to Leave was in correct form as set out in Schedule 5 of the Private Residential Tenancies Notices and Forms (Scotland) Regulations 2017 ('The 2017 Regulations').

The Notice to Leave was dated 11<sup>th</sup> January 2024 and advised the Tenant that an application would not be submitted to the Tribunal for an eviction order before 7<sup>th</sup> April 2024.

The Tenant had resided in the Property for more than six months and the application for eviction was based on ground 1 of Schedule 3 of the 2016 Act and therefore eighty four days notice was required. The Notice to Leave had been sent to the Respondent by email dated 11<sup>th</sup> January 2024. The Notice to Leave correctly gave the Tenant a minimum of eighty four days notice.

- (iii) a copy of the notice given to the local authority as required by Section 56(1) of the 2016 Act.

The Tribunal confirmed that a copy of the required notice had been provided.

**(c)** The Tribunal confirmed that the application form had been correctly signed and dated by the Landlord's representatives as required by Section 109(c) of the Procedure Rules.

7.2 The Tribunal found that the Applicant had met the requirements of Ground 1 of Schedule 3 The Private Housing Tenancies (Scotland) Act 2016 for the following reasons:

7.2.1 The Tribunal had a copy of the Landlord's title GLA83246 and established that the Applicant is heritable proprietor of the Property and she is entitled to sell the Property.

7.2.2 Evidence had been provided that the Applicant intend to sell the Property. The Tribunal accepted the following evidence:

7.2.2.1 The letter from Moore Marshall, solicitors, dated 4<sup>th</sup> March 2024 confirming that they had been instructed to act in connection with the sale of the Property.

7.3 The Tribunal find as a matter of fact that the Applicant intends to put the Property up for sale once she obtains vacant possession.

7.4 The Tribunal were mindful of the decision of Lord Greene in the case of *Cummings v Dawson* (1942) 2 All ER 653 on matters to consider when determining reasonableness:

*'In considering reasonableness... it is my opinion, perfectly clear that the duty of the judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad, common sense way as a man of the world, and to come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or more weight, others may be decisive.'*

The Tribunal found that it was reasonable for the eviction order to be granted given the fact that the Tenant did not oppose the application.

7.5 The Tribunal granted the eviction.

## **8. 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.**

**11<sup>th</sup> December 2024**

**Legal Member**