



**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/24/2139

Re: Property at 42 Myrekirk Terrace, Dundee, DD2 4SP (“the Property”)

Parties:

Ms Louise Grant, 5 Claverhouse Buildings, Dundee, DD4 9BT (“the Applicant”)

**Ms Louise Vaughan, 42 Myrekirk Terrace, Dundee, DD2 4SP (“the
Respondent”)**

Tribunal Members:

Valerie Bremner (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 that an eviction order be granted in favour of the Applicant and against the Respondent in terms of Ground 4 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 as the landlord intends to live in the let property as the landlord’s only or principal home for at least three months and the Tribunal is satisfied on account of that fact that it is reasonable to issue an eviction order.

Background

1. This application for an eviction order was first lodged with the tribunal on 8th May 2024 and accepted by the tribunal on 9th August 2024. A case management discussion was fixed for 13th December 2024 at 10:00 am.

The Case Management Discussion

2. The applicant did not attend to the case management discussion but was represented by Mr Livingstone of Landlord Specialist Services Scotland. The Respondent did not attend the case management discussion, but the tribunal was aware that the application, supporting papers and the date and time of the case

management discussion had been intimated to her by Sheriff officers handing her the papers personally on 7th of November 2024. In addition, the Respondent had emailed the tribunal on 7th of December indicating that she had received the papers, would be unable to attend the hearing but wanted the eviction to go ahead as she could not be rehoused by the council without an eviction order. The tribunal was satisfied that the Respondent had received fair notice of the case management discussion and that it was appropriate to proceed in her absence.

3. The tribunal had sight of the application, a tenancy agreement, a Notice to Leave, a document confirming hand delivery of the Notice to Leave by the landlord, a notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 together with an e-mail sending this to the local authority. In addition, the tribunal had sight of an offer to purchase another property from Lindsays solicitors and an e-mail dated 10th July 2024 from the Applicant indicating that she was homeless and currently staying with her sister and brother until such time as she and her husband could access the let property in order to live in it. In addition, the tribunal had sight of the e-mail dated 7th December 2024 from the Respondent indicating that she wanted the eviction to go ahead in order that she could be rehoused by the council.

4. The parties had entered into a private residential tenancy at the property with effect from 1st April 2019. Mr Livingstone advised the tribunal that it was the landlord's intention to live in the let property. She currently lived with family and had required to sell her property due to a financial burden within the family which required to be addressed. He said he had no more information regarding the financial difficulty than that but was aware that money had to be released in order to deal with that and the landlord had achieved this by selling the property where she had been living. The offer to purchase which had been lodged by the Applicant related to the sale of that property. He also understood that the landlord had lived in that other property since around the start of the tenancy in April 2019. He understood that the landlord owned only the property which was now sold and the rented property in the application. She was not an investment landlord, and he understood that she had lived at her former property alone and required to move into the rented property as she had nowhere else to live.

5. As far as the tenant was concerned Mr Livingstone's information was that she lived at the rented property on her own and had been there for a number of years. There had been a good relationship between the parties and there were no underlying circumstances regarding the tenancy which might have a bearing on the application for eviction. He also understood that there were no medical circumstances as regards the tenant or disabilities which would make it difficult for her to be rehoused.

6. The tribunal had sight of a Notice to Leave dated 12th January 2024 indicating as an eviction ground that the landlord intended to live in the let property. The tribunal also had sight of a typed note from the landlord indicating that she had delivered by hand a "notice to quit" to the Respondent tenant on 12th January 2024. Although the typed note referred to a notice to quit, the documentation seen by the tribunal was the required Notice to Leave.

7. The tribunal also had sight of a notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 which was sent to Dundee City Council in relation to this application on 8th May 2024.

8. The tribunal was satisfied it had sufficient information upon which to make a decision and that the proceedings had been fair.

Findings in Fact

9. The parties entered into private residential tenancy at the property with effect from 1st of April 2019.

10. The parties have been on good terms during the tenancy and it is understood that the Respondent lives alone at the property.

11. The Applicant required to sell the property where she lived earlier in 2024 due to financial difficulties affecting her family to allow money to be released to meet the financial difficulty.

12. These financial difficulties required her to sell the property she was living in as her home and apart from the rented property in this application she has no other accommodation.

13. The Applicant is currently homeless and living with family until such time as she can access the rented property in order to live there.

14. The Applicant Intends to live at the let property as her principal home for at least three months when she can access it for this purpose.

15. A Notice to Leave in proper form dated 12th January 2024 was hand delivered to the Respondent by the Applicant on that date and this notice indicated that no application to the tribunal for an eviction order would be made before 9th of April 2024.

16. A notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 was sent to Dundee City Council in relation to this application on 8th May 2024.

17. The Respondent e-mailed the tribunal on 7th December 2024 advising that she had received the tribunal papers and wished the eviction to go ahead in order that she could be rehoused by the council.

18. It is understood that there are no known medical issues or disabilities affecting the Respondent which would cause difficulties in her seeking to be rehoused in social housing.

Reasons for Decision

The tribunal accepted that the appropriate procedures had been carried out in respect of the Notice to Leave and section 11 notice in relation to this application. The

Respondent did not appear at the case management discussion but indicated by e-mail that she did not wish to oppose the application and was seeking that an order be granted as soon as possible to allow her to be rehoused. The tribunal saw evidence that the Applicant has sold her home in the form of an offer to purchase from a firm of solicitors and further received an e-mail from the Applicant in July 2024 advising that she was currently homeless and living with family until such time as she could access the rented property in order to live there. The tribunal was advised she has no other properties and had required to sell the property in which she lived for financial reasons. The Respondent's circumstances are largely unknown, but it was known that she lived alone at the property and there were not thought to be any medical or disabilities which would affect her ability to be rehoused. In all the circumstances it appeared to the tribunal that it would be reasonable to grant the eviction order.

Decision

The Tribunal granted an eviction order in favour of the Applicant and against the Respondent in terms of Ground 4 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 as the landlord intends to live in the let property as the landlord's only or principal home for at least three months and the Tribunal is satisfied on account of that fact that it is reasonable to issue an eviction order

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.

Valerie Bremner

Legal Member/Chair

_____ 13.12.24 _____
Date