



**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/24/2533**

**Re: Property at 26 Glenbo Drive, Denny, FK6 5PQ (“the Property”)**

**Parties:**

**Donna Kathryn Russell, Woodland Cottage, Home Farm, Drove Loan, Denny (“the Applicant”)**

**Laura Mary Andrew, 26 Glenbo Drive, Denny, FK6 5PQ (“the Respondent”)**

**Tribunal Members:**

**Joel Conn (Legal Member) and Frances Wood (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be granted 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.**

**Background**

1. This is an application by the Applicant for an eviction order in regard 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 in question was by the Applicant to the Respondent commencing on 4 June 2022.
2. The application was dated 30 May 2024 and lodged with the Tribunal on 4 June 2024.
3. The application relied upon a Notice to Leave in terms of section 50 of the Private Housing (Tenancies) (Scotland) Act 2016 dated 7 March 2024 and served upon the Respondent by hand delivery on that date. (We noted that the Tenancy Agreement specified service by email, but no issue was taken by the Respondent

to the mode of service.) The Notice relied upon Ground 1 of Schedule 3 Part 1 of the 2016 Act, being that “the landlord intends to sell”. In regard to Ground 1, the body of the notice stated that the Applicant was “building a house and require the funds to do so” and specified the name and contact telephone number of the estate agent appointed to sell. The Notice to Leave intimated that an application to the Tribunal would not be made before 31 May 2024.

4. Within the application papers were an invoice from DM Hall dated 28 May 2024 for a Home Report and evidence that it had been prepared, and a letter from Taylor William Letting & Estate Agents dated 30 May 2024 noting instructions to market the property.
5. Evidence of a section 11 notice in terms of the Homelessness Etc. (Scotland) Act 2003 served upon Falkirk Council on 6 June 2024 was included in the application papers.
6. Shortly prior to the case management discussion (“CMD”) the Applicant lodged further papers being:
  - a. A letter from a consultant medical practitioner who was treating her father for a serious medical condition. (The full details were disclosed to the Tribunal and Respondent but we do not require to repeat the medical information given the circumstances of the Decision. Suffice to say, the medical information and the gentleman’s age were consistent with a decision to sell his farm.)
  - b. An email from the Applicant’s father stating that he has required to sell his home and move into the property occupied by the Applicant.
  - c. An email from the Applicant stating that she has now missed the opportunity to purchase a plot of land on which to build a property, but now instead requires to sell the Property to raise funds for a purchase of a new home. It further referred to her parents requiring to sell their home and move into the property the Applicant is currently occupying, due to her father’s ill-health.

## **The Hearing**

7. The matter called for a CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 12 December 2024 at 10:00. We were addressed by both parties. The Respondent was accompanied by a supporter, Stewart Love, but he gave no submissions. (At one point the Respondent indicated that Mr Love worked for Falkirk Council and was providing support to her while she sought rehousing from the local authority.)
8. We sought confirmation from the Applicant that the application was still insisted upon. The Applicant confirmed that it was. We sought confirmation from the Respondent whether she had now read the recent documents from the Applicant, and she had. We sought the Respondent’s position on the application. The Respondent made clear that she did not oppose eviction. We took both parties through the details of their respective positions.

9. In respect of the Applicant's position:
  - a. She owned no other property.
  - b. She has been living at a cottage on her parents' farm with her 13 year-old son, and her daughter who is a full time student nurse (and thus still dependent upon the Applicant). The cottage is a three-bedroom property. She had no formal tenancy for the cottage.
  - c. Her parents lived on the farm house on the farm, but due to age and her father's ill-health, they were retiring from farming and had sold the farm house and farm land, and now required to move into the cottage. The cottage was too small to accommodate them all, and the Applicant had wished to move into her own home.
  - d. Though her wish to build her own home was not now proceeding, she still required to sell the Property to raise funds to buy a new home for her and her two children.
  - e. The Property was a one-bedroom terrace and not suitable accommodation for her to move into, hence she sought eviction so as to sell the Property.
10. In regard to her position, the Respondent provided the following information:
  - a. She did not oppose eviction and was in contact with the local authority on rehousing.
  - b. She was hopeful that she would receive the assistance required on rehousing. She intended to provide evidence of any eviction order against her to the local authority so as to assist in her rehousing application.
  - c. She lived alone at the Property, with her dog.
  - d. The Property was suitable for the Respondent due to its proximity to family and her work, but it was not specially adapted for her needs.
11. We confirmed with the Respondent that she understood the implications of conceding eviction, and that if an order for eviction was granted and the local authority failed to provide her with accommodation that she felt suitable, she was still at risk of an eviction. She confirmed that she understood matters and did not oppose an eviction order. We confirmed that she took no issue with the Notice served upon her or the grounds for eviction sought.
12. No motion for expenses was made by either party.

### **Findings in Fact**

13. The Applicant let the Property to the Respondent under an undated Private Residential Tenancy agreement with commencement on 4 June 2022 ("the Tenancy").
14. The Property is the Respondent's only or main residence and the Tenancy is thus a Private Residential Tenancy ("PRT").
15. On or around 7 January 2024, the Applicant's letting agent drafted a Notice to Leave in correct form addressed to the Respondent, providing the Respondent with notice, amongst other matters, that the Applicant wished to sell the Property.

16. The Notice to Leave provided the Respondent with notice that no application would be raised before the Tribunal prior to 31 May 2024.
17. A copy of the Notice to Leave was served on the Respondent by hand delivery on 7 March 2024.
18. The Applicant raised proceedings for an order for eviction with the Tribunal, under Rule 109, relying on Ground 1 of Schedule 3 Part 1 of the 2016 Act, on 4 June 2024.
19. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon Falkirk Council on 6 June 2024.
20. On or about 28 May 2024, on the instruction of the Applicant, DM Hall prepared a Home Report on the Property in anticipation of marketing of the Property.
21. On or about 30 May 2024 the Applicant instructed Taylor William Letting & Estate Agents to market the Property.
22. The Applicant wishes to sell the Property with vacant possession in early course so as to utilise any sale proceeds towards purchasing her own property.
23. The Applicant is currently living in a cottage owned by her parents. Her parents require her to leave this cottage so that they may move in, after having sold their home and farmland (both as part of their retirement plans and due to health requirements).
24. The Applicant owns no other properties other than the Property.
25. The Applicant has two dependent children and her current accommodation is not large enough to accommodate her and her parents.
26. The Property is a one-bedroom terraced property.
27. The Respondent lives alone with her dog.
28. The Respondent has made active attempts to obtain alternative accommodation and is positive about obtaining a social housing tenancy.
29. On 30 October 2024, a Sheriff Officer acting for the Tribunal intimated the CMD of 12 December 2024 upon the Respondent.

## Reasons for Decision

30. The application was 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, especially in consideration of the Respondent's confirmation that no issue was taken to the notice or procedure.
31. 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.*
  - (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.*
32. The letter to the Applicant from her estate agent along with the evidence of a Home Report being prepared constitutes sufficient evidence under paragraph (3). On the basis of the submissions on behalf of the Applicant we agreed that paragraphs (2)(a) and (b) were also satisfied. In any event, the Respondent conceded that the material requirements of Ground 1 were satisfied.
33. We therefore considered whether it was reasonable to issue an eviction order under paragraph (2)(c). We accepted the Applicant's reasons for wishing to sell, and these were not disputed by the Respondent. The Respondent's submissions showed her to be focused on her position, and taking appropriate steps for rehousing. We were obliged to the Respondent for her clear-minded approach to the application and we were satisfied as to her reasons for not seeking to oppose the application. In light of all the circumstances and the Respondent's lack of opposition, we were satisfied that the application to evict was reasonable.
34. The Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. On the basis of the information held, we are thus satisfied to grant an order for eviction in normal terms.

## Decision

35. In all the 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.

# J Conn

12 December 2024

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Legal Member/Chair

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Date