



**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/24/2938**

**Re: Property at 94 Montford Avenue, Glasgow, G44 4NZ (“the Property”)**

**Parties:**

**Ms Jasmine Tennant and Ms Jessica Hodges, 17 Harry Mills Drive, 4213, Australia. (“the Applicants”)**

**Ms Danielle Campbell, 94 Montford Avenue, Glasgow, G44 4NZ (“the Respondent”)**

**Tribunal Members:**

**Martin McAllister (Legal Member) and Gordon Laurie (Ordinary Member) (“the tribunal”)**

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

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

**Background**

1. On 26 June 2024, the Applicant submitted an application to the First-tier Tribunal for Scotland seeking an order of eviction.
2. On 30 July 2024, the application was accepted for determination by the Tribunal.
3. A case management discussion was held by teleconference on 4 December 2024.

## **The case management discussion**

4. Neither the Applicants nor the Respondent were present.
5. The Applicants were represented by Mr Rafael Bar of D J Alexander, letting agents.

## **Preliminary Matters**

6. The Legal Member explained the purpose of a case management discussion. He explained that the tribunal had not only to consider whether any ground for eviction was valid but also if it was reasonable to grant the order.
7. Mr Bar said that an order of eviction was sought on one or both of the grounds set out in the application. Ground 1 is that a landlord intends to sell a let property or at least put it up for sale, within 3 months of a tenant ceasing to occupy it and Ground 12 is that a tenant has been in rent arrears for three or more consecutive months.
8. Mr Bar said that the Applicants previously instructed Purple Bricks as letting agents before they transferred responsibility to D J Alexander.
9. Mr Bar said that he considered that the application could be determined without the necessity of a hearing.
10. The tribunal noted that the Respondent was not in attendance. It had a Certificate of Intimation from sheriff officers which confirmed that the details of the case management discussion had been served on her on 28 October 2024.

## **11. Findings in Fact**

- (i) The Applicants own the Property.
- (ii) The Applicants and the Respondent entered into a private residential tenancy agreement in respect of the Property on 14 September 2020.
- (iii) The tenancy commenced on 14 September 2024.
- (iv) The monthly rent now due under the private residential tenancy is £650.
- (v) The Applicants had served a notice to leave on 25 March 2024 requiring the Respondent to vacate the Property by 20 June 2024.
- (vi) The Respondent continues to reside in the Property.
- (vii) The appropriate intimation had been made to the local authority in terms of section 11 of the Homelessness etc (Scotland) Act 2003.
- (viii) The Applicants reside in Australia.
- (ix) The Applicants entered into a contract with estate agents on 19 February 2024 for the marketing of the Property once it is vacant.

## **12. Findings in Fact and Law**

- (i) The Applicants intend to sell the Property.
- (ii) It is reasonable to grant the order of eviction.

## **13. Documents before Tribunal**

- (i) Private residential tenancy agreement dated.
- (ii) Copy Notice to Leave dated 25 March 2024.
- (iii) Copy Section 11 intimation to the local authority dated 26 June 2024.
- (iv) Title Sheet for the Property.
- (v) Rent statements from Purple Bricks and D J Alexander.
- (vi) Email from D J Alexander to the Respondent dated 13 March 2024 together with copies of pre-action protocol letter and information about agencies who may be able to assist the Respondent.

## **14. The Law**

### **Section 51 of the 2016 Act as amended:**

*(1) The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.*

*(2) The provisions of schedule 3 stating the circumstances in which the Tribunal may find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.*

*(3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.*

*(4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.*

### **SCHEDULE 3 PART 1**

#### **Ground 1 Landlord intends to sell**

*1(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.*

### **Schedule 3 Part 3**

#### **Ground 12 Rent arrears**

*12(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.*

*(3) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—*

*(a) for three or more consecutive months the tenant has been in arrears of rent, and*

*(b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.*

*(4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider—*

*(a) whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit , and*

*(b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.*

*(5) For the purposes of this paragraph—*

*(a) references to a relevant benefit are to—*

*(i) a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),*

*(ii) a payment on account awarded under regulation 91 of those Regulations,*

*(iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,*

*(iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,*

*(b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.*

*(6) Regulations under sub-paragraph (4)(b) may make provision about—*

*(a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),*

*(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,*

*(c) such other matters as the Scottish Ministers consider appropriate.*

15. Mr Bar said that the Applicants are Australian and are now permanent residents there. He said that they want to sell the Property so that they can release funds. He said that he understood that the Property was purchased when they were studying in Scotland. He said that they now want to sell it.

16. Mr Bar said that the tribunal had a copy of the terms of business and contract with D J Alexander in connection with the marketing of the Property. He said that the Applicants both needed to sell the Property and that they considered it impractical to continue to own a let property in Scotland.

17. Mr Bar stated that the Applicants own no other property in Scotland.

18. Mr Bar referred the tribunal to the rent statements submitted with the application. He said that the D J Alexander rent statement showed that, on 20 June 2024, there were arrears of rent amounting to £4235. He said that the current level of rent arrears was £3872.

19. Mr Bar said that the arrears of rent were accumulated during the management contract with Purple Bricks. He said that, since his company had assumed responsibility for management of the Property, the Respondent had paid the monthly rent of £650.

20. Mr Bar referred to the email from his company to the Respondent on 13 March 2024 and the accompanying attachments which had been sent to her in connection with the necessary pre action protocol and signposting to advice agencies. He said that the email referred to arrears of rent of £3585 and that the Respondent did not challenge the level of arrears stated in the email.

21. Mr Bar did concede that he understood that the Respondent was disputing some of the arrears for the period during which Purple Bricks managed the Property.

### **Discussion on Grounds**

22. The tribunal considered that it required to take a two stage approach to the application. It had to first establish if either or both of the grounds are met.
23. The tribunal accepted that the Applicants owned the Property and were entitled to sell it. It had sight of the Title Sheet.
24. On the balance of probabilities, the tribunal accepted that the Applicants intend to sell the Property. The contract with a selling agent and the fact that they are now resident in Australia was supportive of this.
25. Mr Bar was candid in his approach to the rent arrears. He could not vouch for the position prior to his company's management of the Property and he did state that he understood that the Respondent did have some issues with the arrears said to be accrued during the management of Purple Bricks. The tribunal considered that it would require to hear evidence on this matter. Having determined that Ground 1 was met, the tribunal saw no need to consider further the question of rent arrears and made no finding in respect of Ground 12.
26. The tribunal determined that the Applicants intend to sell the Property.

### **Discussion on Reasonableness**

27. Unsigned statements by each Applicant which were submitted with the application detail their respective financial situation.
28. Ms Tennant's position is that she has a considerable amount of debt and describes "being held captive by her own property." She states that she is living with her parents.
29. The position of Ms Hodges is that she currently earns around 900 Australian dollars per week and that her outgoings amount to 850 Australian dollars per week. She states that she has no savings and had to borrow to buy a car which is essential for her work. She states that her "hope is that selling the Property will allow me some financial stability in the future."
30. Mr Bar submitted that it would be reasonable to grant the order. He said that it is not practical for the Applicants to continue as landlords and that they need to release funds and be relieved of the responsibility of the Property.

31. Mr Bar said that he knew little about the Respondent, particularly since his company had not been the original agents. He said that, as far as he knew, the Respondent is in employment.
32. Mr Bar said that he was aware that the Respondent had been unsuccessful in obtaining alternative accommodation and that she may have suffered in this regard because of her preference to find a home local to where she now lives.

### **Determination**

33. The tribunal considered that it had sufficient information to determine the application.
34. The determination of whether it is reasonable to make an order of eviction is a balancing exercise. The Respondent had chosen not to engage with the Tribunal process so there was limited information on her circumstances.
35. From the information the tribunal had on the Applicants, it determined that it was reasonable to grant the order of eviction.
36. The tribunal was conscious of the time of year and the fact that the Respondent may have to consult agencies and letting agents who may be closed for part of the festive period. It therefore considered it reasonable that the date of eviction be deferred to 17 January 2024.

### **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.**

**Martin J. McAllister  
Legal Member  
4 December 2024**