



Decision under Section 43 Tribunals (Scotland) Act 2014 and Rule 39 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (contained in Schedule 1 of the Chamber Procedure Regulations 2017 (SSI No 328)) (“the Procedure Rules”) in relation to a request for review

Chamber Ref: FTS/HPC/EV/24/0312

Re: Property at 19 Kirkoswald Road, Flat 2/2, Newlands, Glasgow, G43 2YH (“the Property”)

Parties:

Mrs Elizabeth McCart, 5 Swanston Road, Newtonabbey, CO Antrim, BT36 5DN (“the Applicant”)

Mr Christopher Kilshaw, 19 Kirkoswald Road, Flat 2/2, Newlands, Glasgow, G43 2YH (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Frances Wood (Ordinary Member)

DECISION

1. On 6th December 2024 the Tribunal reached a decision in this case to grant an order for eviction. The decision was intimated on both parties by email on 12th December 2024.
2. On 26th December 2024 the Respondent sent an email to the Tribunal requesting that the Tribunal review its decision.
3. Rule 39(2) of the Tribunal’s Procedural Rules states:

An application for review under section 43(2)(b) of the Tribunals Act must—

(a) be made in writing and copied to the other parties;

(b) be made within 14 days of the date on which the decision is made or within 14 days of the date that the written reasons (if any) were sent to the parties; and

(c) set out why a review of the decision is necessary.

4. The Tribunal considers that all parts of Rule 39(2) have been met and the Request for Review is therefore competent.
5. The First-tier Tribunal considers that the application for review is entirely without merit and thus refuses the application in terms of Rule 39 (3) of the Procedure Rules.

BACKGROUND

6. The application history is set out in the Case Management Discussion Note and the Written Decision with Statement of Reasons.
7. The case documents are referred to for their terms and held to be incorporated herein.

REASONS FOR DECISION

8. The Respondent's Request for Review states as follows:

Dear Sirs,

I would like to formally request a review of the decision.

I have spoken with Shelter Scotland who have advised me that the decision may have been taken without full and up to date evidence to support my landlords case.

It is my understanding that a landlord must provide evidence that they wish to sell the property within 3 months of a tenant leaving the property however the landlord has not provided any physical evidence to support this.

Within the landlords submitted pack there is no evidence of a "refresh" Home Report. There is no evidence of instruction to a solicitor regarding the sale of the property or any communication with a solicitor to support the property being put on the market within the 3 month timescale. There is no evidence which confirms her intention to sell other than her testimony.

Please note, that the Tribunal has advised in point 39 of the Written Decision, that I have failed to lodge any evidence that I will be able to acquire a mortgage. I would request that the Tribunal is consistent in their assessment and hold the landlord to the same scrutiny.

I look forward to your response.

Yours sincerely

Chris Kilshaw

9. The Tribunal, in considering the Request for Review, looked at the Case Management Discussion Note, prepared after the Case Management Discussion which took place on 15th July 2024. At paragraph 9 it was noted

that “The Respondent confirmed that he did not dispute that the Applicant wished to sell the property, and on that basis the Tribunal considered that the Ground had been met.” The Tribunal had also been advised at the Case Management Discussion that the Respondent had been in negotiation with the Applicant to purchase the property, and it was clear from the Case Management Discussion Note that the Hearing was to be held only in relation to the reasonableness of granting an eviction order. The Tribunal are clear that on that basis there was no requirement to hear any evidence at the Hearing regarding the Applicant’s intention to sell the property, and this was reiterated at the start of the Hearing, as documented in paragraph 18 of the Written Decision.

10. The First-tier Tribunal considers that the request to conduct a review is wholly without merit, and therefore refuses it.

Alison Kelly

03.01.2025

Legal Member/Chair

Date