

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/24/2261**

**Re: Property at 104 Carden Avenue, Cardenden, KY5 0EN (“the Property”)**

**Parties:**

**Mr Ross Hepburn, Ms Margaret Reid, Lady Helen Nurseries, Cardenden,  
Lochgelly, KY5 0AL (“the Applicant”)**

**Ms Louise Doherty, 104 Carden Avenue, Cardenden, KY5 0EN (“the  
Respondent”)**

**Tribunal Members:**

**Valerie Bremner (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in terms of Ground 1A of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Applicants are entitled to sell the let property, the Applicant Ms Reid is suffering financial hardship and they intend to sell the property to alleviate that hardship by selling the property for market value or at least putting it up for sale within 3 months of the Respondent ceasing to occupy it and it is reasonable to grant an order.**

**Background**

**1. This application for an eviction order in terms of rule 109 of the Tribunal rules of procedure was first lodged with the Tribunal on 17<sup>th</sup> May 2024 and accepted by the Tribunal on 9<sup>th</sup> August 2024. A case management discussion was fixed for 13<sup>th</sup> December 2024 at 2pm.**

**The Case Management Discussion**

2. The case management discussion was attended by the Applicant Ms Margaret Reid who represented both of the Applicants. The Respondent Ms Louise Doherty represented herself.

3. The Tribunal had sight of the application, an unsigned tenancy agreement, a Notice to Leave the property, proof of delivery of the Notice to Leave, a notice in terms of section 11 of the Homelessness etc. (Scotland) Act 2003 together with an email sending this to the local authority, an email acknowledging an order for a Home Report dated 12<sup>th</sup> June 2024 from Chartered Surveyors, an email dated 13<sup>th</sup> August 2023 from estate agents giving valuation details, a tax return for 2022-2023 and a bank statement from May 2024, both of these being for the Applicant Margaret Reid.

4. The parties had entered into a private residential tenancy at the property, a terraced house with effect from 5<sup>th</sup> August 2021. Monthly rent payable in terms of the tenancy agreement is £300 per month.

5. The Respondent Ms Louise Doherty accepted that she had received a Notice to Leave and did not oppose an eviction order being granted nor did she wish to suggest that it was not reasonable for the order to be granted.

6. Ms Reid advised the Tribunal that the Applicants were separating amicably after cohabiting for over 20 years. They had no separation agreement but they had agreed that the rented property which they owned jointly should be sold and that Ms Reid could use the free proceeds of the sale to finance somewhere for her to live herself as she would be homeless otherwise. Mr Hepburn was going to live at the address where they both currently stay. Ms Reid explained that she relied on a small income from the business she runs at the Lady Helen Nurseries as a self-employed person together with the state pension which she received. Her tax return for 2022- 2023 showed income including the state pension of £18400 for that tax year but Ms Reid pointed out that if the rented property was sold she would no longer receive the rent which made up £3500 of her total income which would drop to around £15000 per year. She explained that although she could stay at her current address until the property was sold she had to leave after that and needed to find somewhere else to live by herself. She said that she is 70 years old and cannot obtain a loan to buy property and the free proceeds of the sale of the property which she had been told would be around £125,000 would be enough for her to purchase a small ex council property for herself and to buy some furniture. She and Mr Reid rented out only this property.

7. Ms Doherty the Respondent was aware of the situation of the landlords and was in discussion with the local council about being rehoused in social housing. She said that she had been looking for somewhere else to stay but could not afford to buy a property and had been looking at private lets but she has a cat which made finding somewhere more challenging. She was intending to go into temporary accommodation as someone she knew was going to “ put her up” for a while.

8. The Tribunal had sight of A Notice to leave dated 12<sup>th</sup> February 2024 setting out the eviction ground and indicating that an application for eviction would not be made to the Tribunal until 13<sup>th</sup> May 2024. The Tribunal had sight of proof of delivery of this Notice dated 13<sup>th</sup> February 2024.

9. A notice in terms of Section 11 of the Homelessness etc. (Scotland) Act 2003 was sent by email to Fife Council in relation to this application on 18<sup>th</sup> March 2024.

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

### **Findings in Fact**

11. The parties entered into a private residential tenancy at the property with effect from 5<sup>th</sup> August 2021.

12. The landlords are separating after living together for more than 20 years.

13. The Applicant Ms Reid needs to find somewhere else to live after the separation.

14. The Applicants jointly own the rented property which is the only property they rent out and if sold this should realise around £125,000.

15. The Applicants have agreed that the Applicant Ms Reid will receive the free proceeds from the sale of the rented property and use this to buy a home for herself and to buy furniture for that home.

16. The Applicant Ms Reid is 70 years of age and cannot fund the purchase of a property without selling the rented property and understands that she would be unable to borrow the funds required for a property purchase.

17. Ms Reid had an income of £18400 for the tax year 2022-2023 including the state pension but this will drop to around £15,000 if the property is sold as the Applicant Ms Reid will no longer receive rental income from the property.

18. Due to the Applicants' separation Ms Reid is in financial hardship as due to her unplanned separation she is facing the expense of obtaining a home to live in which is beyond her financial means unless the rented property is sold and she uses the free proceeds of around £125,000 to buy another home in which she can live.

19. The Applicants instructed a home report to be prepared for the rental property on 12<sup>th</sup> June 2024.

20. The Applicants instructed an estate agent to provide a valuation of the rented property and received a valuation by email of 13<sup>th</sup> August 2023.

21. A Notice to Leave dated 12<sup>th</sup> February 2024 setting out the eviction ground and indicating that an application to the Tribunal would not be made before 13<sup>th</sup> May 2024 was delivered to the Respondent on 13<sup>th</sup> February 2024.

22. A notice in terms of section 11 of the Homelessness etc. (Scotland) Act 2003 was sent to Fife Council on 18<sup>th</sup> March 2024 in relation to this application.

23. The Applicants are entitled to sell the let property, the Applicant Ms Reid is suffering financial hardship and they intend to sell the property to alleviate that hardship and to sell it for market value or at least put it up for sale within three months of the Respondent ceasing to occupy it.

24. The Respondent does not oppose the application and currently lives alone at the rented property.

### **Reasons for Decision**

Although this application is not one where the rented property has to be sold to assist in paying bills which exceed income, the Tribunal was still satisfied that financial hardship had been demonstrated and that the eviction ground had been made out. The intention to sell was objectively demonstrated by evidence of a Home Report being ordered and a property valuation having been carried out. Due to a change in the Applicants' circumstances the Applicant Ms Reid requires to move home and find another and cannot financially meet this expense given her low income without using the sale proceeds from the rented property. In these circumstances and given that the Respondent does not oppose an order being granted the Tribunal was satisfied that it was reasonable to grant an eviction order.

### **Decision**

The Tribunal granted an eviction order in terms of Ground 1A of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Applicants are entitled to sell the let property, the Applicant Ms Reid is suffering financial hardship and they intend to sell the property to alleviate that hardship by selling the property for market value or at least putting it up for sale within 3 months of the Respondent ceasing to occupy it and it is reasonable to grant an 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**

**13.12.24**

**Legal Member/Chair**

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**Date**