



**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/24/2242**

**Re: Property at 22 Glen Fyne Road, Craigmarloch, Cumbernauld, G68 0DD (“the property”)**

**Parties:**

**Mr Gordon Bell, Mrs Nicola Bell, 70 Stirling Road, Kilsyth, G65 0HY (“the Applicant”)**

**Mr Craig Junor, 22 Glen Fyne Road, Craigmarloch, Cumbernauld, G68 0DD (“the Respondent”)**

**Tribunal Members:**

**Lesley Ward (Legal Member) and Gordon Laurie (Ordinary Member)**

**1. Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the Respondent’s eviction from the property should be made on the ground that the Applicant wishes to sell the property and it is reasonable in all of the circumstances that the eviction order be granted.**

**Background**

**2. This was a case management discussion (‘CMD’) in connection with an eviction application in terms of rule 109 of the tribunal rules of procedure and section 52 of the Private Housing (Tenancies)(Scotland) Act 2016, (‘the Act’). The Applicant Mr Bell attended and the Respondent Mr Junor attended. Mr Junor’s sister Ms Karen Crosthwait attended as his supporter.**

The eviction application was made on 9 May 2024. The Tribunal had before it the following copy documents:

1. Private Residential Tenancy Agreement ('PRT') dated 17 July 2019.
2. Notice to leave dated 2 February 2024.
3. Proof of service of the notice to leave.
4. Letter from K Property regarding sale of the property dated 27 August 2024.
5. Submission from the Respondent's representative Mr Melvin of Coatbridge CAB dated 27 January 2025.
6. Land certificate.
7. Landlord registration.
8. Section 11 notice and proof of service.

### **Preliminary matters**

3. The Tribunal noted that the email address used to serve the notice to leave was different from the email address for the Respondent in the PRT. The Respondent confirmed that he changed his email address and that he received the notice to leave by email on 2 February 2024. The Tribunal noted that the Respondent's submission dated 27 January 2025 also confirmed that the notice to leave was valid. The Tribunal was satisfied that the notice to leave had been validly served.

4. The Respondent's submissions of 27 January 2025 was lodged late, as rule 22 requires documents to be lodged 7 days before any hearing or CMD. The Applicant confirmed he had no objection to the late lodging of the Respondent's submission and the Tribunal allowed the submission to be received late.

### **Case management discussion**

#### **5. The Applicant's position**

Mr Bell set out the background to his application in some detail. He explained that he and Mrs Bell bought the property for in 2011 for £114,000 for their daughter to live in. She stayed with her child for a couple of years and it has been rented out since then. This is the only property they own and rent out. The property was not bought as an investment and after 14 years it is only worth around £115,000. There is a mortgage of around £80,000 and the Applicant wants to realise the equity to pay this into their pension with a view to retirement. The property has been rented out to the Respondent since 2019. The agreed monthly rent was £575 and it has only been increased once since then to £592. Mr Bell has no issue with the Respondent as a tenant. He has paid his rent and has adhered to the terms of the PRT. The Applicant recognises the Respondent has health challenges and has been happy to assist with matters like changing lightbulbs on an ongoing basis. As it is almost a year since the notice to leave was served the Applicant is seeking the eviction today. Mr Bell explained that the monthly mortgage for the property has increase from £126.12 to £368.14. It generates an income of around £6400 per annum and allowing for factors charges, mortgage and insurance there is a pre-tax profit of around £600 per year. The property requires some upgrading work but the Applicant does not have the

resources to pay for this. Mr Bell was sympathetic to the Respondent's position and he suggested that the enforcement of the eviction could be postponed until the end of May 2025 to give the Respondent time to pursue his housing application with the local authority. He also explained that K Property had offered the Respondent two comparable properties that he refused. He rejected one because it had a bath rather than walk in shower and the other due to stairs despite the fact that the property also has stairs.

## **6. The Respondent's position**

When he received the notice to leave in February 2024 the Respondent contacted the local authority in February 2024 to seek alternative housing. He would prefer to be rehoused in a housing association property rather than another private let. Before he moved into the property in 2019, he was in a housing association property however he wanted to leave due to threatening behaviour from others. Mr Junor explained that he has mental and physical health problems and his psychiatrist has written a letter of support to the local authority. He has heard nothing recently. He declined the two tenancies proposed by K Property as he requires a walk in shower and one only had a bath. He declined the second because the external stairs were steeper than the communal stairs of his current tenancy. He conceded that due to the communal stairs his sister has to help him with his shopping. The Respondent accepted the Applicant's reasons for selling without question and he also confirmed that an eviction order would assist him with his housing application. The Respondent would have preferred a hearing in connection with the application however in the light of the Applicant's offer to delay the enforcement of the order; the Respondent was not opposed to the order being granted.

## **7. Findings in fact**

- The Applicant is the owner and registered landlord of the property.
- The parties entered into a PRT for the let of the property on 17 July 2019. .
- The Applicant paid £114,000 for the property.
- The Applicant has a mortgage of £80,000.
- The mortgage payments have increased since the PRT was made, from £126.12 to £368.14 per month.
- The current rent is £592 per month.
- Once the Applicant pays the mortgage and other outgoings for the property it generates a pre-tax income of around £600 per year.
- The Applicant intends to sell the property to release the equity.
- The Respondent is not opposed to the eviction order being granted.

## **Reasons**

**8.** The eviction application was initially opposed by the Respondent. After hearing the Applicant's position and the offer to postpone the eviction until the end of May 2025, the Respondent withdraw his objection. The Tribunal was mindful that the Respondent was unrepresented and he was vulnerable due to his mental health

difficulties. The Respondent had his sister as his supporter and in accordance with the overriding objective the Tribunal adjourned the CMD to enable the Respondent to confer with her. The Respondent had also sought advice from the CAB and the submission prepared and lodged by them raised the possibility of the Tribunal granting the eviction but postponing the enforcement for three months. The suggestion made by the Applicant means that the order will not be enforced for four months. The Tribunal was satisfied that it was reasonable in all of the circumstances to grant the eviction but postpone the enforcement until 31 May 2025 to enable the Respondent to pursue his hosing application.

### **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.**

Lesley Ward

**30 January 2025**

**Legal Member/Chair**

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**Date**