



**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/24/1067**

**Re: Property at 154 Rowan Street, Paisley, PA2 6RZ ("the Property")**

**Parties:**

**Mrs Margaret Cook, 43 Roffey Park Road, Paisley, PA1 3JL ("the Applicant")**

**Ms Jane Florence, 154 Rowan Street, Paisley, PA2 6RZ ("the Respondent")**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

At the Case Management Discussion ("CMD"), which took place by telephone conference on 14 January 2025, the Applicant was not present but was represented by Mr Livingston of Landlord Specialist Services Scotland. The Respondent was also present.

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:-**

**Background**

The Tribunal noted the following background:-

- i. The Applicant is the heritable proprietor of the Property.
- ii. Title to the Property was previously in the joint names of the Applicant and her late husband who passed away on 30 October 2022.
- iii. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 30 April 2019.
- iv. On 29 September 2023, the Applicant per her agents, Landlord Specialist Services Scotland, served on the Respondent a Notice to Leave dated 29 September 2023 requiring the Respondent remove from the Property by 23 December 2023 on the basis that she intends to sell the Property following the death of her husband. A covering letter to the Respondent in the name of Landlord Specialist Services Scotland accompanied the Notice to Leave.
- v. The Applicant has served on Renfrewshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

## **The CMD**

At the outset of the CMD the Tribunal first sought the Respondent's position on the application in the absence of any written representations having been received from her. She made the following submissions:-

- i. The Respondent dealt with the Applicant's agents, Slater Hogg & Howison, for most of the tenancy and pays her rent there.
- ii. She applied to Renfrewshire Council for housing approximately 2 years ago.
- iii. Her application was considered by a panel and she was assessed as being in critical need.
- iv. She suffers from a diagnosed mental health condition and it would not be suitable for her to be housed in a tenement flat. She requires an "own door" flat.
- v. The Respondent was previously a housing officer for 20 years. She is not now working.
- vi. She spoke to Mr Tait of the Homeless Unit before Christmas to make him aware of the eviction application.
- vii. The Property is an "own door" flat with one bedroom.
- viii. The Respondent lives in the Property alone with her dog. She will be 60 years of age this year.
- ix. Her daughter lives nearby and provides support.
- x. The Respondent is in receipt of Adult Disability Payments.
- xi. She has looked at rental properties in the private sector but cannot afford them. A similar property to the Property was for let nearby at £650 per month.
- xii. She is queuing for public sector properties near to where her daughter lives as her support is needed.
- xiii. Housing Associations have nothing suitable.
- xiv. She doesn't think she needs nor does she want sheltered accommodation.
- xv. She took the eviction paperwork to the Council's Homeless Unit and has been advised to apply for homeless accommodation if an eviction order is granted.

At the CMD Mr Livingston for the Applicant made the following submissions:-

- i. The Applicant is winding up her late husband's estate.
- ii. She requires to apply to the Court for Confirmation and thereafter wants to open trust funds for her grandchildren.
- iii. She wants to dispose of the Property on the open market.
- iv. The Property is the last rental property to be sold that the Applicant's late husband owned. He had an interest in 3 rental properties of which the Property was one. The other two have been disposed of already.
- v. The Applicant is elderly and no longer wishes to be involved in the rental market.
- vi. The Respondent has been an exemplary tenant and her rent is up to date.
- vii. Mr Livingston will work with the Respondent to assist her applying to other housing providers.

The Respondent thereafter made further brief representations. She said:-

- i. She was sympathetic to the Applicant's situation.
- ii. She had previously been invited to view another of the properties rented by the Applicant and her husband which she did but it was in poor repair.
- iii. The Applicant and her late husband have been considerate with her.
- iv. She would prefer public sector accommodation.

The Tribunal adjourned to consider both parties' positions.

## Findings in Fact

- i. The Applicant is the heritable proprietor of the Property.
- ii. Title to the Property was previously in the joint names of the Applicant and her late husband who passed away on 30 October 2022.
- iii. The Applicant leased the Property to the Respondent in terms of the PRT that commenced on 30 April 2019.
- iv. On 29 September 2023, the Applicant per her agents, Landlord Specialist Services Scotland, served on the Respondent a Notice to Leave dated 29 September 2023 requiring the Respondent remove from the Property by 23 December 2023 on the basis that she intends to sell the Property following the death of her husband. A covering letter to the Respondent in the name of Landlord Specialist Services Scotland accompanied the Notice to Leave.
- v. The Applicant is winding up her late husband's estate.
- vi. She requires to apply to the Court for Confirmation to his estate.
- vii. She wants to dispose of the Property on the open market.
- viii. She has entered into an Exclusivity Agreement with Let Property relative to the Property sale of the Property.
- ix. The Property is the last rental property to be sold that the Applicant's late husband owned. He had an interest in 3 rental properties of which the Property was one. The other two properties have been disposed of already.
- x. The Applicant no longer wishes to be involved in the rental market.
- xi. The Property is an "own door" flat with one bedroom.
- xii. The Respondent lives in the Property alone with her dog. She will be 60 years of age this year.
- xiii. The Respondent has been an exemplary tenant and her rent is up to date.
- xiv. Her daughter lives nearby and provides support.
- xv. The Respondent is in receipt of Adult Disability Payments.
- xvi. She applied to Renfrewshire Council for housing approximately 2 years ago.
- xvii. Her application was considered by a panel and she was assessed as being in critical need.
- xviii. The Respondent suffers from a diagnosed mental health condition and it would not be suitable for her to be housed in a tenement flat. She requires an "own door" flat.
- xix. The Respondent was previously a housing officer for 20 years. She is not now working.
- xx. She spoke to Mr Tait of the Homeless Unit before Christmas to make him aware of the eviction application.
- xxi. She has looked at rental properties in the private sector but cannot afford them.
- xxii. She is queuing for public sector properties near to where her daughter lives as her daughter's support is needed.
- xxiii. She took the eviction paperwork to the Council's Homeless Unit and has been advised to apply for homeless accommodation if an eviction order is granted.
- xxiv. The Applicant has served on Renfrewshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

## Reasons for Decision

The application proceeds upon Ground 1 of Schedule 3 of the 2016 Act.

Ground 1 states:-

*"(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.”*

The Applicant is entitled to sell the Property in terms of sub-paragraph 2(a), being the heritable proprietor thereof.

Sub-paragraph 2(b) requires that the Applicant intends to sell the Property for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it. Sub-paragraph 3 gives examples of the evidence that might be produced to show the landlord has the intention described in sub-paragraph 2(b). In this instance the Applicant relies upon an Exclusivity Agreement with Let Property relative to the Property. The Tribunal accepts this document as sufficient to meet the terms of sub-paragraph 2(b).

The Tribunal also requires to be satisfied that it is reasonable to issue an eviction order in terms of sub-paragraph 2(c).

There were no disputed facts between the parties. The Applicant seeks an eviction order. The Respondent did not oppose the grant of an eviction order as such, but instead emphasised the steps she had already taken without success to find alternative accommodation and explained why her search is a narrow one in the public sector.

The Tribunal carefully weighed and balanced all the relevant facts found by it which bear on reasonableness.

The Tribunal is satisfied that the Applicant intends to sell the Property as soon as vacant possession is recovered. The Tribunal is satisfied that the Applicant intends to sell the Property to allow Confirmation to be applied for to allow her late husband's estate to be wound up, and that the Applicant no longer wishes to continue in the rental market.

The Tribunal understood the Respondent's health condition and her need to live close to her daughter for support. The Tribunal also acknowledged the steps the Respondent has already taken to find somewhere else to live.

Both parties' positions deserve equal consideration. However, the Applicant's reasons for intending to sell the Property are subjectively reasonable and her legal right to dispose of the Property for that purpose must take precedence over the Respondents' (unsaid but understood) preference to remain in occupation.

On that basis the Tribunal concludes that it is reasonable to grant an eviction order.

Having reached the decision to grant an eviction order the Tribunal carefully considered whether to delay the execution of the eviction order in terms of Rule 16A(d) of the First-tier Tribunal Housing and Property Chamber Rules of Procedure 2017. The Tribunal concluded that it is reasonable to provide the Respondent with an extended period of time to secure alternative accommodation. Accordingly, the Tribunal determined that the order cannot be enforced until after 31 March 2025.

#### **Determination**

The Tribunal determined that an eviction order should be granted against the Respondent in favour of the Applicant suspended to 12 noon on 1 April 2025.

#### **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.**

Gillian Buchanan

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Legal Member/Chair

14 January 2025  
Date