

Housing and Property Chamber
First-tier Tribunal for Scotland



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/24/2473

Re: Property at 49 Turner Street, Coatbridge, ML5 1BS (“the Property”)

Parties:

CJA Ventures Limited, 1 St Helens Close, Worchester Park, Surrey, London, KT4 7FD (“the Applicant”)

Nadia Laughran, 49 Turner Street, Coatbridge, ML5 1BS (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. This is an application by the Applicant for an eviction order in regard to a Private Residential Tenancy (“PRT”) in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The PRT in question was by the Applicant to the Respondent commencing on 25 August 2021.
2. The application was dated 28 May 2024 and lodged with the Tribunal on 30 May 2024.
3. The application relied upon a Notice to Leave in terms of section 50 of the Private Housing (Tenancies) (Scotland) Act 2016 dated 20 February 2024 and said to be served upon the Respondent by its letting agent by email on that date (as permitted by the Tenancy Agreement). The Notice relied upon Ground 1 of Schedule 3 Part 1 of the 2016 Act, being that “the landlord intends to sell”. In regard to Ground 1, the body of the notice referred simply to a desire to sell with

no further information. The Notice to Leave intimated that an application to the Tribunal would not be made before 17 May 2024.

4. The application papers included a brief letter dated 27 June 2024 from the director of the Applicant stating that DM Hall had been instructed to prepare a Home Report and that AMARCO Estates had been instructed to market the Property for sale, both in May 2024. No evidence of these instructions were included with the application papers.
5. Evidence of a section 11 notice in terms of the Homelessness Etc. (Scotland) Act 2003 served upon North Lanarkshire Council on 30 March 2024 was included in the application papers.
6. We noted that the Tenancy Agreement stated the landlord as “Karlo Chan” but from our own enquiries on Companies House we noted that Mr Chan was the sole director and shareholder of the Applicant. Mr Chan’s position as director was further stated within the application papers.

The Hearing

7. The matter called for a CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 12 February 2025 at 10:00. We were addressed by Paula Taylor, director, TM Residential Ltd for the Applicant and by the Respondent.
8. We sought further information from the Applicant’s agent on the reasons for the intended sale. The explanation was as follows:
 - a. The Applicant’s director and shareholder himself lived in rented accommodation and his landlord had sought repossession so that the landlord could move back in. The Applicant’s director thus sought to raise funds for his own house move from the sale of the Property.
 - b. The Applicant’s agent knew of no other property owned by the Applicant or its director through the Applicant, personally, or through any other company. (From Companies House, we noted the last published accounts of the Applicant tended to show that the Applicant owned only the Property, given the level of assets stated.)
 - c. The Applicant had instructed the Applicant’s agent to make enquiries as to sale of the Property with a sitting tenant but there had been no interest. The Applicant was thus of the view that a sale with vacant possession was necessary.
9. In regard to the Respondent’s submissions, her general position was that she appreciated that the Applicant wished to sell the Property and accepted its entitlement to do so, but that she did not yet have further housing in place. Though she was “not entirely confident” on the matter she “believed that North Lanarkshire Council will rehouse me”. She stated that she did not oppose the application. She said that she was in contact with the local authority’s homelessness team on a regular basis and had put in an application for rehousing. She understood from conversations with the local authority that if an

eviction order were granted against her she would be given an offer of temporary accommodation but the Council operated three areas for temporary accommodation and only the area most local to her was suitable in her view.

10. In regard to reasonableness, the Respondent explained the following:
 - a. The Property was a two bedroom “four in a block” (top floor) property.
 - b. She and her partner had lived there with their two children until around 2022 when their relationship ended and he moved out.
 - c. Her 21-year old son had recently moved out.
 - d. She now resided at the Property with her 16-year old daughter who was in a local college.
 - e. Her daughter suffered from certain medical conditions (which were disclosed to us but we do not regard it necessary to detail). These conditions had a particular effect on her during 2024 and resulted in the Respondent requiring to take time off from employment to care for her daughter. The Respondent had her employment terminated in August 2024 due to the amount of time she required to be away from work in regard to care of her daughter.
 - f. Her daughter’s medical conditions continue and the Respondent is concerned that they would be exacerbated by rehousing outwith the local area. In any case, rehousing outwith the local area would create significant transportation difficulties for her daughter in attending college as there would be no one able to drive her.
 - g. The Respondent feels her own mental health has deteriorated in recent times and she is also awaiting a formal diagnosis of two conditions which have physical symptoms which would affect her ability to move property swiftly. (Again the physical conditions for which the Respondent is awaiting a diagnosis were disclosed to us but we do not regard it necessary to detail them.)
 - h. The Respondent is on Universal Credit. She does not expect to be in a position to seek new employment until her housing position is more settled, and due to continued care for her daughter.
 - i. The Property was not specially adapted for her or her family’s needs.
 - j. Her ex-partner lives nearby, as does the Respondent’s mother and sister. All provide a strong support network for the Respondent and her daughter and the location of the Property is thus especially suitable for her.
 - k. The Respondent has not investigated the private rental market as she does not believe her finances would enable her to obtain a new private tenancy.
11. In regard to reasonableness the Applicant’s agent gave the following clarifications:
 - a. Relations with the Respondent are good, and there are no issues as to breach of the Tenancy.
 - b. There are around two months of arrears, but these arise from payment issues with Universal Credit which the Applicant appreciates can occur. No reliance is made on the arrears in regard to the application and no action in respect of them is planned.

12. Neither party identified any dispute with the submissions provided by the other party. No issues were raised by the Respondent in regard to service of the Notice nor any issues with the documentation.
13. We asked both parties to consider whether, if we were minded to grant the eviction order today, there should be a suspension. The Respondent said there should be but was not able to state what length. She had no information from the local authority as to the likely timescale for rehousing but believed that temporary accommodation would be provided once she had an eviction order against her if permanent accommodation was not immediately available. Her concern was whether temporary accommodation would be in the Coatbridge area as she believed only that would allow her and her daughter to maintain their support networks and allow her daughter to continue to attend the local college. She had been informed that the position on what temporary accommodation was available alters daily, and thus the greater amount of notice that she had, the greater the chance of rehousing in the local area. Further, her health conditions included physical conditions made a swift move more difficult. The Applicant's agent was sympathetic to the problems that the Respondent faced in obtaining rehousing but relied on the Applicant's own pressure to seek rehousing (which required not only vacant possession but also then marketing and sale of the Property and his own new accommodation to be sourced thereafter). She thus argued against a "long" suspension. Neither party made any submissions about any specific dates or commitments which were relevant for our consideration.
14. No motion was made for expenses by either party.

Findings in Fact

15. The Applicant let the Property to the Respondent under a Private Residential Tenancy ("PRT") agreement with commencement on 25 August 2021 ("the Tenancy").
16. On 20 February 2024, the Applicant's letting agent drafted a Notice to Leave in correct form addressed to the Respondent, providing the Respondent with notice, amongst other matters, that the Applicant wished to sell the Property.
17. The Notice to Leave provided the Respondent with notice that no application would be raised before the Tribunal prior to 17 May 2024.
18. A copy of the Notice to Leave was served on the Respondent by email on 20 February 2024 in accordance with the terms of the Tenancy Agreement.
19. The Applicant raised proceedings for an order for eviction with the Tribunal, under Rule 109, relying on Ground 1 of Schedule 3 Part 1 of the 2016 Act, on 30 May 2024.
20. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon North Lanarkshire Council on 30 May 2024.

21. The Applicant has instructed AMARCO Estates to act in marketing the Property.
22. The Applicant has instructed DM Hall to prepare a Home Report for the Property.
23. The Applicant wishes to sell the Property with vacant possession in early course so as to raise funds for its shareholder to invest in his own housing.
24. The Applicant's sole director and shareholder, Mr Chan, is in rented accommodation and has been asked to vacate this so that his landlord may re-occupy that property.
25. The Respondent resides at the Property with her 16 year-old daughter.
26. The Respondent's daughter is in full-time education at a local college.
27. The Respondent has been making active attempts to obtain alternative accommodation in the social housing sector but has thus far failed to obtain a new tenancy.
28. The Respondent has not yet received an offer of social housing.
29. The Property is close to the Respondent's ex-partner, and her mother and sister, all of whom provide a support network for the Respondent and her daughter.
30. The Property is close to the Respondent's daughter's college.
31. The Respondent has been unable to work since August 2024 due to matters relating to the care for her daughter.
32. The Respondent's daughter's medical conditions remain as at the date of this decision and the Respondent still provides care for her as required.
33. The Respondent has mental and physical medical conditions.
34. The Property is not specially adapted.
35. The Property is a two-bedroom top floor "four in a block" property.

Reasons for Decision

36. The application was in terms of rule 109, being an order for eviction of a PRT. We were satisfied on the basis of the application and supporting papers that the Notice to Leave had been competently drafted and served upon the Respondent.
37. Ground 1 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:

- (1) ...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.*

- 38. The letter from the Applicant's director regarding instructing DM Hall and AMARCO Estates constitutes meagre evidence under paragraph (3) but this was augmented by submissions as to the intention to sell and the reasons. On the basis of the submissions by the Applicant we agreed that paragraphs (2)(a) and (b) were satisfied. In any event, the Respondent conceded that the material requirements of Ground 1 were satisfied.
- 39. We therefore considered whether it was reasonable to issue an eviction order under paragraph (2)(c). We accepted the Applicant's reasons for wishing to sell, and they were not disputed by the Respondent. We further accepted it was reasonable to wish to sell given the Applicant's director's own housing needs. The Respondent's submissions on reasonableness raised significant issues but there was no material dispute on any issue, and the Respondent was clear that she was not opposing eviction subject to her concerns about the speed of requiring to leave the Property.
- 40. We think it likely that the Respondent's re-housing will be considered more urgently if an eviction order is granted against her but do not base our Decision upon that. We were minded to grant the application on the undisputed facts, and that no dispute was being extended to the material issues, albeit with a suspension. The Applicant's reasons for seeking to sell were compelling, but the Respondent's arguments on reasonableness (such as the need to maximise the chance of rehousing in the local area) were also compelling. In balancing the various interests, we held that granting the order but with a suspension of just over two months would balance the parties' interests.
- 41. The Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. On the basis of the information held, we are thus satisfied to grant an order for eviction at this time but with the earliest date of eviction suspended until 12 noon on 14 April 2025.

Decision

42. In all the circumstances, we grant an order against the Respondent for eviction from the Property under section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* further to ground 1 of Schedule 3 of that Act, suspended as stated above.

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.

Joel Conn

12 February 2025

Legal Member/Chair

Date