



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/24/1538

Re: Property at 8 Hollywood, Largs, KA30 8SP (“the Property”)

Parties:

Acre Lettings Limited, c/o 6 Stanlane Place, Largs, KA30 8DA (“the Applicant”)

Ms Catriona (Maciver) Smith, 8 Hollywood, Largs, KA30 8SP (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction relying on ground 1 (landlord intends to sell) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

1. By application dated 4 April 2024 the applicant seeks an order for eviction relying on ground 1 (landlord intends to sell) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Notice to leave with proof of service
 - Notice in terms of section 11 of the Homelessness Etc. (Scotland) Act 2003
 - Email from Slater Hogg and Howison

3. A case management discussion (“cmd”) took place by teleconference on 4 October 2024. The applicant was represented by Ms Bell, letting agent from Acre Letting Ltd. The respondent was not present or represented. The Tribunal was satisfied that the respondent had received proper notice of the cmd. A Certificate of Intimation showed that papers had been served by Sheriff Officers by letterbox delivery on 26 August 2024. The Tribunal proceeded with the cmd in the respondent’s absence in terms of rule 29.
4. Ms Bell sought an order for eviction. In relation to the applicant’s intention to sell the property. Ms Bell stated that the applicant owned a large number of properties for rent. She was unable to specify the exact number of properties but thought it was at least 35.
5. Ms Bell stated that the reason the applicant sought to sell the property was primarily financial. Ms Bell explained that John Corrigan was the Director of Acre Lettings Ltd. She stated that the factoring fees payable for the property were high however she did not have the exact figure.
6. In relation to the reasonableness of granting an order, Ms Bell provided information relating to the respondent’s personal circumstances. She stated that the respondent was born in 1935. Ms Bell first met the respondent when she moved into the property in August 2019.. Ms Bell stated that there had been no issues with the tenant’s conduct. Ms Bell stated that as the respondent was a good tenant she had spoken to her before the notice to leave was served to advise her that she could assist with finding somewhere else to live. Ms Bell stated that due to the respondent’s age it was difficult to find suitable accommodation however, she had become aware of an available McCarthy Stone retirement property locally which in Ms Bell’s opinion would have been suitable. She had suggested the property to the respondent who stated that she was not interested in the alternative property. Ms Bell stated that she had spoken to the respondent by telephone on a number of occasions. She stated that she was aware that the respondent lived alone and had no family in the local areas. She stated that the respondent had told her that she had sought advice after she received the notice to leave and that she was seeking housing in a different local authority area closer to relatives.. She stated that the respondent’s current property was on the first floor with no lift.

7. The Tribunal determined to adjourn the application to a further cmd. The Tribunal requested that the applicants submit the following additional information:
- Evidence showing the outlays at the property in relation to factoring fees
 - A letter of engagement from estate agents relating to the sale of the property
 - A signed statement from Mr Corrigan confirming his intention to sell the property.

Case management discussion – 31 January 2025 – teleconference

8. The applicant was again represented by Ms Bell. The respondent was not present or represented. The Tribunal was satisfied that the respondent had received proper notice of the cmd and proceeded with the discussion in her absence in terms of rule 29.
9. Prior to the cmd the applicant had lodged the following additional items:
- Invoices showing property factors fees
 - Signed record of conversation between the respondent and Ms Bell dated 28 October 2024
 - Signed statement from Mr Corrigan
 - Letter from Slater Hogg and Howison dated 21 October 2025
10. Ms Bell sought an order for eviction relying on ground 1. She referred to the written note of her conversation with the respondent. She confirmed that she had a lengthy conversation with the respondent in her offices on 28 October 2024. She advised that the respondent had stated that she would not be attending the cmd. The respondent had advised Ms Bell that she had made an application to North Lanarkshire Council for housing which would proceed after an eviction order was granted. Ms Bell stated that she discussed that the respondent may want to contact a local advice agency to provide representation however the respondent was very clear that she did not wish to seek advice on the matter. She stated that she was concerned at how long they process was taking and wanted the matter brought to an end so that she could progress her housing application to move to the Cumbernauld area. Ms Bell stated that she formed the impression that the respondent had been told not to oppose the

application by the local authority. Ms Bell referred to her previous offer to assist the respondent to move into alternative accommodation in the local area that had been turned down.

11. In relation to the applicant's reasons for selling the property Ms Bell stated that the cost of the property had increased to a level that was not covered by the rental income. She referred to the invoices that had been submitted that showed that the factors fees payable for the property amounted to £741.66 every six months. She also referred to the signed statement from Mr Corrigan. Within the statement Mr Corrigan referred to a steep rise in the mortgage interest payable for his property portfolio which had impacted the profitability of the property as a rental. He stated that the mortgage interest increase combined with the other outlays for the property meant that it was not viable option as a rental property which was why the applicant intended to sell the property.
12. Ms Bell advised that the rent payable in the property had increased to £600 from January 2025. She confirmed that the respondent was 89 years old.

Findings in fact and law

13. Parties entered into a private rented tenancy agreement with a commencement date of 12 August 2019.
14. The applicant is the owner of the property.
15. John Corrigan is the sole director of Acre Lettings Ltd.
16. A valid notice to leave was served on the respondent.
17. The applicant intends to sell the property.
18. The respondent was offered assistance to find alternative private rented housing by the applicant's letting agent.
19. The respondent was provided with information to access housing advice by the applicant's letting agent.
20. The respondent has made an application to the local authority for housing
21. The respondent is 89 years old and resides alone.
22. It is reasonable to grant an order for eviction

Decision to determine proceedings without a hearing

23. Rule 18 states:

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

23. Neither party disputed any of the facts or evidence submitted to the Tribunal.

The Tribunal was satisfied that it had sufficient information to determine the application without a hearing and proceeded to make a determination under Rule 18.

Reasons for the decision

24. 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.

25. The Tribunal took into account the application together with the various documents submitted by the applicant and the written and oral submissions made at both cmds.
26. The Tribunal accepted the letter from Slater Hogg and Howison and Mr Corrigan's signed statement as evidence that the applicant intended to sell the property. This was not disputed by the respondent.
27. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against
28. The Tribunal gave significant weight to the fact that the respondent did not oppose the order for eviction being granted and made no objection to the reasonableness of the order being granted. The Tribunal accepted Ms Bell's undisputed evidence regarding her meeting with the respondent on 28 October 2024. The Tribunal gave weight to the fact that Ms Bell had suggested that the respondent should access housing advice and the fact that the respondent had told her that she did not seek to oppose the application as she intended to move into local authority housing in the Cumbernauld area.
29. The Tribunal gave some weight to the fact that the financial information provided showed that the property had become unviable as a profitable rental.
30. The Tribunal gave great weight to the age of the respondent and the fact that she lived alone in the property. The Tribunal considered that had the respondent indicated that she wished to oppose an order being granted her personal circumstances may well have been an overwhelming factor against granting an order. However, in the absence of the respondent opposing an order the Tribunal determined that on balance it was reasonable to grant an order for eviction.

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.

Mary-Claire Kelly

Legal Member/Chair

31 January 2025

Date