



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/24/2754

Re: Property at 50 Melrose Road, Greenfaulds, Cumbernauld, G67 4BA (“the Property”)

Parties:

Mrs Diane Harding, Bracklin, Pharisee Green, Dunmow, CM61 1JN (“the Applicant”)

Mr Sheldon Taylor, 50 Melrose Road, Greenfaulds, Cumbernauld, G67 4BA (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Elizabeth Williams (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 accepted on 21 October 2024 the applicant seeks an order for eviction on the ground that she intends to sell the property. The application was heard alongside conjoined application FTS/HPC/CV24/1387 seeking an order for payment of £5450 in respect of arrears of rent.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Rent statements
 - Notice to leave with proof of service

- Sole selling rights agreement in favour of K Property
 - Notice in terms of the Homelessness Etc. (Scotland) Act 2003 with proof of delivery
 - Photographs of the common stair at the property
 - Consent from the joint owner Daniel Harding to the application proceeding in the applicant's sole name.
3. A case management discussion ("cmd") was assigned for 23 January 2025

Case management discussion – 23 January 2025- teleconference

4. The applicant, Diane Harding appeared on her own behalf. 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 cmd in their absence in terms of rule 29.
5. The applicant sought an order for eviction relying on ground 1. She stated that her intention remained to sell the property. The applicant stated that she owned another property close by and wished to sell both to assist with her retirement plans. She referred to the extensive arrears in the property which were now in excess of £5450 in relation to the reasonableness of granting an order. She also highlighted that the respondent had paid no rent since February 2024. She stated that the notice to leave had been served in February 2024 after which the respondent stopped paying any rent.
6. The applicant stated that the respondent was still residing in the property. He had refused access to the letting agents who had been unable to carry out their usual six monthly inspections. The applicant stated that she was concerned regarding the condition of the property. She stated that a downstairs neighbour had recently contacted her to make her aware that the respondent was placing rubbish in the stairwell which was a nuisance and hazard. She stated that she had previously had to cover the cost of environmental health clearing refuse left by the respondent in the common areas at the property. The applicant stated that as far as she was aware the respondent was in employment and lived alone in the property.

Findings in fact and law

7. Parties entered into a private residential tenancy agreement with a commencement date of 7 January 2022.
8. Monthly rent due in terms of the agreement was £425.
9. Arrears as at 8 January 2025 amounted to £5450.
10. The respondent has not made any payments towards the rent or arrears since February 2024.
11. The applicant is joint owner of the property with her husband Daniel Harding.
12. The applicant intends to sell the property.
13. A valid notice to leave was served on the respondent on 15 February 2024.
14. The respondent has refused access to the property for the purpose of carrying out inspections since February 2024.
15. It is reasonable to grant an order for eviction.

Reasons for the decision

16. 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.
17. 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.

18. The Tribunal accepted the evidence that the applicant intended to sell the property. This was not disputed by the respondent.
19. 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
20. 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.
21. The Tribunal took into account the oral and written submissions of the applicant and the other documentary evidence that had been submitted. The Tribunal found the applicant to be credible and truthful and accepted her submissions as truthful.
22. The Tribunal gave significant weight to the respondent's conduct including the high level of arrears which continued to rise, his failure to allow access to the property and the complaints that had been received by the applicant regarding his leaving refuse in the common stair to the nuisance and annoyance of his downstairs neighbour. The Tribunal accepted the unchallenged information provided on these points as truthful and accurate.
23. The Tribunal took into account that an eviction order would result in the respondent losing his home however taking all the foregoing factors into account the Tribunal found 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

23 January 2025

Legal Member/Chair

Date