



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/24/3455

Re: Property at 44 The Crescent, Gorebridge, EH23 4PP (“the Property”)

Parties:

Ms Mary Louise Caulfield, 31 Whitehouse Crescent, Gorebridge, EH23 4FT (“the Applicant”)

Ms Irene Lawrence, 44 The Crescent, Gorebridge, EH23 4PP (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Tony Cain (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it could decide the application without a Hearing and that it was reasonable to issue an Eviction Order against the Respondent

Background

1. By application dated 26 July 2024, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 1 of Schedule 3 to the 2016 Act, namely that the landlord intends to sell the Property.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, which commenced on 1 November 2021 at a rent of £575 per month, a Notice to Leave dated 27 February 2024 advising the Respondent that an application to the Tribunal under Ground 1 would not be made before 25 May 2024 and a letter of 25 July 2024 from Drummond Miller, Solicitors, Glasgow to the Applicant, confirming her instructions to them to sell the Property.
3. The application stated that the Applicant wishes to sell all her rented properties and leave the rental market. She has agreed sales for all her properties. She

no longer wishes to be a landlord. Maintenance costs have increased and remaining a landlord is no longer affordable for her.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 6 March 2025. The Applicant was represented by Nicola Brechany of TC Young, solicitors, Glasgow. The Respondent was present and was supported by her daughter.
5. The Applicant's representative told the Tribunal that the Applicant is 54 and employed as an advice worker by Citizen's Advice. She can no longer afford to be a landlord, and the Property is the last remaining of her portfolio, the other properties having been sold in 2024. In 2022, she had tried unsuccessfully to sell the Property with the Respondent remaining as a sitting tenant, but a number of sales had fallen through, and she now wished to sell with vacant possession.
6. The Respondent told the Tribunal that she has been in contact with the Homelessness Team at Midlothian Council, but they cannot regard her as homeless unless she has an Eviction Order granted against her. She has an appointment with the Homelessness Officer on Monday 10 March and she wished the Tribunal to make the Order to allow her to move on. She has health issues and she said that her understanding was that she would not be given a hostel place, but would be offered temporary accommodation in the first instance.
7. The Tribunal adjourned proceedings for a few minutes to enable the Members to discuss, in particular, the information that the Respondent had provided. After the adjournment the Tribunal advised the Parties that it would be making an Eviction Order but that it would not be enforceable until 21 April 2025. This was to allow Midlothian Council the time and space necessary to ensure that they could find the most appropriate accommodation for the Respondent.

Reasons for Decision

8. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
9. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies.
10. Ground 1 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the landlord intends to sell the let property and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell and 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 the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts. Ground 1 goes on to state that evidence tending to show that the landlord has that intention includes (for example) a letter of engagement from a solicitor or estate agent concerning the sale, or a recently prepared Home Report.

11. The Tribunal was satisfied from the evidence provided by the Applicant and the letter from the solicitors, that the Applicant intends to sell the Property. Accordingly, the only matter for the Tribunal to decide was whether it would be reasonable to issue an Eviction Order.
12. The Tribunal noted that the Applicant is no longer able to afford to be a landlord and that she has sold her remaining rented properties. The Tribunal also noted that the Respondent had clearly indicated to the Tribunal that she wishes an Eviction Order to be made, so that the local authority will regard her as homeless, and she can be rehoused.
13. Accordingly, having considered carefully all the evidence before it and the representations of the Parties, the Tribunal decided that it would be reasonable to issue an Eviction Order.

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.

George Clark

Legal Member/Chair

6 March 2025
Date