



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/24/2647

Re: Property at Flat 2/3, 11 Maxwellton Street, Paisley, PA1 2TZ (“the Property”)

Parties:

G3R PROPERTIES LTD, 18 Moorhill Road, Newton Mearns, Glasgow, G77 6BW (“the Applicant”)

Mr Patrik Wiedemann, FLAT 2/3, 11 Maxwellton Street, Paisley, PA1 2TZ (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion (“CMD”) which took place by telephone conference on 13 March 2025, Mrs Rukhsana Rehman, Director of the Applicant was in attendance and the Applicant was represented by Mrs Rehman’s son, Mr Taimoor Rasool. The Respondent was not present or represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

The CMD was also in respect of the related case bearing reference FTS/HPC/EV/24/3726.

Prior to the CMD Mrs Rehman on behalf of the Applicant had lodged documents by emails dated 28 February and 9 March 2025.

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

The Tribunal noted the following background:-

- i. The Applicant is the heritable proprietor of the Property.

- ii. The application concerns a Private Residential Tenancy ("PRT") entered into between the parties relative to the Property that commenced on 26 January 2022.
- iii. On 6 October 2023, the Applicant served on the Respondent a Notice to Leave requiring the Respondent remove from the Property by 1 January 2024 on the basis of Grounds 1, 1A and 3 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").
- iv. The Applicant has served on Renfrewshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

In response to questions from the Tribunal Mr Rasool made the following oral representations:-

- i. With regard to the sale of the Property, the Applicant has outstanding Director's Loans due to Mr Rasool's mother, Mrs Rukhsana Rehman, and these funds were used by the Applicant to purchase the Property and the other three properties bought and rented out in the Applicant's name.
- ii. There is a mortgage over Mrs Rehman's own home. The outstanding capital due in respect of that mortgage is around £70,000-£80,000. The monthly mortgage payment are in respect of both capital and interest. The monthly amount paid is approximately £700 but that amount of projected to rise to between £1200 and £1500. The capital requires to be paid by around September or October this year.
- iii. The Tribunal asked why the Property had been selected for sale from the four properties owned by the Applicant. Mr Rasool said they had spoken to the accountant and the Capital Gains Tax payable is not so high relative to the sale of the Property as opposed to the sale of any of the others. A higher price was paid for the other properties all of which are presently rented out with no eviction proceedings ongoing meantime.
- iv. The capital from the sale of the Property would reduce the Director's Loans and would thereby release capital to Mrs Rehman to put towards the mortgage over her personal property.
- v. The Property is estimated to be worth around £35,000-£50,000 in value. However the intention is that Mr Rasool will lend Mrs Rehman some funds to refurbish the Property in order to achieve a better price. Mrs Rehman does not have enough cash to carry out the refurbishment required and thereafter on sale Mr Rasool will receive part of the proceeds.
- vi. The valuation of Countrywide is based upon the refurbishment works having been carried out.
- vii. With regard to the ground of eviction based on financial hardship, Mr Rasool described Mrs Rehman's personal position. However, the Tribunal indicated that the financial hardship had to relate to the Applicant and not to Mrs Rehman as an individual. Mr Rasool referred to there being consistent factoring bills in respect of the Property and to a cost of £1600 for replacing a boiler. Mr Rasool said he lent money to the Applicant for that work. He said the Applicant relies upon rental income and when rent is not paid the Applicant suffers hardship.
- viii. With regard to the refurbishment works, Mr Rasool stated that the kitchen requires to be replaced but to do so a wall requires to be taken down which involves structural works. He has consulted an engineer. Permission will be needed to take down the wall and an engineer will require to be employed as a steel beam needs to be installed. Either the kitchen will be extended or an open plan space created with the living room. Either way the wall requires to be removed.
- ix. The Property comprises one bedroom, one living space, the kitchen which he described as a "closet in the corner", and a bathroom. The works could not be

undertaken with the Respondent in occupation. Mr Rasool referred to the detailed price quotation of A:B Studio Chartered Architects Limited dated 2 September 2024 relative to the works described above.

- x. Mr Rasool was asked to about him trying to assist the Respondent in finding somewhere else to stay. Mr Rasool said he texted the Respondent asking if he wanted assistance by Mr Rasool sending links of properties for rent. The Respondent declined.

The Tribunal adjourned to consider the position.

Findings in Fact

- i. The Applicant is the heritable proprietor of the Property.
- ii. The application concerns a PRT entered into between the parties relative to the Property that commenced on 26 January 2022.
- iii. On 6 October 2023, the Applicant served on the Respondent a Notice to Leave requiring the Respondent remove from the Property by 1 January 2024 on the basis of Grounds 1, 1A and 3 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").
- iv. The Applicant has outstanding Director's Loans due to Mrs Rukhsana Rehman and these funds were used by the Applicant to purchase the Property and the three other properties bought and rented out in the Applicant's name.
- v. There is a mortgage over Mrs Rehman's own home. The outstanding capital due in respect of that mortgage is around £70,000-£80,000. The capital requires to be paid by around September or October this year.
- vi. The Applicant has taken advice from an accountant and the Capital Gains Tax payable is less relative to the sale of the Property as opposed to the sale of any of the other three properties owned by the all of which are presently rented out with no eviction proceedings ongoing meantime.
- vii. The capital from the sale of the Property would reduce the Director's Loans and would thereby release capital to Mrs Rehman to put towards the mortgage over her personal property.
- viii. The Property is estimated to be worth around £35,000-£50,000 in value. However Mr Rasool will lend Mrs Rehman funds to refurbish the Property in order to achieve a better price. Mrs Rehman does not have enough cash to carry out the refurbishment required and thereafter on sale Mr Rasool will receive part of the proceeds.
- ix. The valuation of Countrywide is based upon the refurbishment works having been carried out and is evidence of the Applicant's intention to sell the Property.
- x. The kitchen of the Property requires to be replaced. To do so a wall requires to be taken down which involves structural works. A steel beam will require to be installed.
- xi. The Property comprises one bedroom, one living space, the kitchen and a bathroom. The refurbishment works could not be undertaken with the Respondent in occupation.
- xii. The detailed price quotation of A:B Studio Chartered Architects Limited dated 2 September 2024 is evidence of the Landlord's intention to undertake the refurbishment works described above.
- xiii. The Applicant has served on Renfrewshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

Reasons for decision

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally by Mr Rasool at the CMD was not challenged and was accepted by the Tribunal.

The application proceeds upon Grounds 1, 1A and 3 of Schedule 3 of the 2016 Act.

The Tribunal was not satisfied that the Applicant had established financial hardship on the part of the Applicant. There was no evidence to support Ground 1A and only scant submissions by Mr Rasool which did not establish, on the balance of probabilities, that financial hardship had arisen at any time.

Ground 1 of Schedule 3 of the 2016 Act 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 email of Countrywide dated 17 July 2024 in terms of which Countrywide offer to market the Property for sale. 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). The Tribunal took into account the following:-

- i. The Applicant is due significant sums to Mrs Rehman by way of Director's Loans. These sums were provided by her for the purchase of the properties including the Property.
- ii. Mrs Rehman requires the Director's Loans repaid in whole or in part to allow her to repay the capital on her mortgage in respect of her own home due in September /October 2025. She has no other resources to enable her to pay that debt.
- iii. In order to repay the Director's Loans one of the properties owned by the Applicant requires to be sold and the sale of the Property gives rise to the least Capital Gains Tax liability than the sale of any of the other three properties.

On that basis the Tribunal considered it reasonable to grant an eviction order in terms of Ground 1 of Schedule 3 of the 2016 Act.

Ground 3 of Schedule 3 of the 2016 Act states:-

- "(1) It is an eviction ground that the landlord intends to carry out significantly disruptive works to, or in relation to, the let property.*
- (2) The First-tier Tribunal may find that the eviction ground named by sub-paragraph (1) applies if—*
- (a) the landlord intends to refurbish the let property (or any premises of which the let property forms part),*
 - (b) the landlord is entitled to do so,*
 - (c) it would be impracticable for the tenant to continue to occupy the property given the nature of the refurbishment intended by the landlord, and*
 - (d) 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)(a) includes (for example)—*
- (a) any planning permission which the intended refurbishment would require,*
 - (b) a contract between the landlord and an architect or a builder which concerns the intended refurbishment."*

The refurbishment of the Property is intertwined with the intended sale to release best value therefrom.

Given the small size of the Property and the kitchen in particular, the Tribunal was satisfied that the removal of an internal wall, the installation of a steel beam and the refurbishment of the kitchen amounted to significantly disruptive works in relation to the Property.

The Tribunal was also satisfied that evidence tending to show the Applicant's intention to refurbish the Property had been produced in the form of the fee quotation from A:B Studio Chartered Architects Limited dated 2 September 2024.

Given the scale of the works the Tribunal was satisfied that it would be impractical for the Respondent to occupy the Property given the nature of the refurbishment intended by the Applicant.

In the circumstances it is reasonable to issue an eviction order under Ground 3.

Decision

The Tribunal granted an eviction order against the Respondent in favour of the Applicant in terms of Grounds 1 and 3 of the 2016 Act.

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

Legal Member/Chair

13 March 2025
Date