



**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/24/2629**

**Re: Property at 4 Garthdee Gardens, Aberdeen, AB10 7JF (“the Property”)**

**Parties:**

**Mrs Gillian Blacklaw, Mr George Blacklaw, 29 Collieston Drive, Bridge of Don, Aberdeen, AB22 8SN (“the Applicants”)**

**Ms Ruby Nwankwo, 4 Garthdee Gardens, Aberdeen, AB10 7JF (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants were entitled to an order for the eviction of the Respondent from the property but that enforcement of the order should not take place before 30 April 2025.**

**Background**

1. By application dated 7 June 2024 the Applicants applied to the Tribunal; for an order for the eviction of the Respondent from the property under ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicants submitted a copy of the tenancy agreement, Notice to Leave with proof of service, Section 11 Notice and other documents in support of the application.
2. By Notice of Acceptance dated 23 August 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 8 February 2025.
4. By email dated 13 February the Applicants submitted written representations to the Tribunal appointing Ms Katie Hutcheon of Caroline Walker Property Leasing, Aberdeen to represent them at the CMD.

### **The Case Management Discussion**

5. A CMD was held by teleconference on 19 February 2025. The Applicants attended in person and were represented by Ms Hutcheon. The Respondent attended in person.
6. After explaining to the parties the purpose of a CMD the Tribunal noted from the Respondent that although she was not opposing the application she could not make herself homeless. She explained that due to the fact that she was a full-time student and not in employment, with three children she could not afford another private let. The Respondent said that the rent for three-bedroom properties had increased significantly and were now costing £1250.00 per month and most private landlords needed a guarantor which she did not have. The Respondent advised the Tribunal that her rent was paid up to date. The Respondent went on to say that because of being unable to find another private let she was at the mercy of the Council who had said they would find accommodation for her and her three children aged 16, 10 and 8 but that the process would only begin once an order for eviction was granted by the Tribunal.
7. The Respondent advised the Tribunal that her oldest child attended Harlaw Academy and the two younger children attended St Joseph's Primary School, Garthdee. In response to a comment by Ms Hutcheon the Respondent denied that she had been offered accommodation by the City Council and turned it down because it was not in Garthdee outwith the school catchment area.
8. In response to a query from the Tribunal the Respondent said that she had been told by the Homeless Unit at the Council that she must not make herself intentionally homeless. She said she had not been told if any accommodation provided by the Council would be temporary or permanent and had not been given any timescale for accommodation to be provided.
9. In response to a query from the Tribunal, Ms Hutcheon said that the Applicants owned six let properties and had sold a further two. Mrs Blacklaw confirmed it was the Applicants' intention to sell their whole portfolio eventually and Mr Blacklaw explained that the Respondent's property being a three-bedroom house would be easier to sell than the Applicants other properties which were two-bedroom flats. Mr Blacklaw also confirmed that there were no mortgages over any of the let properties.
10. In response to a further query from the Tribunal, Mr Blacklaw did not accept that there was no urgency in recovering the property and that the Applicants

wished to sell the property as soon as possible. Mr Blacklaw submitted that property prices in Aberdeen were falling and it had taken the best part of a year and the Respondent was still in the property.

### **Findings in Fact**

11. The parties entered into a Private Residential Tenancy Agreement that commenced on 13 June 2021 at a rent of £795.00 per calendar month.
12. The Respondent was served with a Notice to Leave in terms of Ground 1 of Schedule 3 of the 2016 Act by email and hand delivery on 4 March 2024.
13. Intimation of these proceedings was sent to Aberdeen City Council by way of a Section 11 Notice by recorded delivery post on 5 June 2024.
14. The Applicants are in their 70s and wish over time to dispose of their portfolio of let properties.
15. The Applicants have six let properties left in their portfolio having sold two properties.
16. There are no standard securities granted over the properties.
17. The Respondent is single and a full-time student. She is not in employment.
18. The Respondent lives in the property with her three children aged 16, 10 and 8. The two younger children attend primary school in Garthdee and the older child attends Harlaw Academy.
19. The Respondent's rent is paid up to date.
20. The Respondent has been unable to find other private let accommodation.
21. The Respondent has applied to Aberdeen City Council for accommodation.
22. The Respondent has been told by Aberdeen City Council that her application for homeless housing will only be determined if the Tribunal grants an order for her eviction.

### **Reasons for Decision**

23. The Tribunal was satisfied from the written representations and documents together with the parties' oral submissions that the parties entered into a Private Residential tenancy that commenced on 13 June 2021 at a rent of £795.00 per calendar month. The tribunal was also satisfied that the Respondent was served with a Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act by email and hand delivery on 4 March 2024 and that the Respondent did not oppose the application. The Tribunal was also satisfied that proper intimation

of the procedure had been sent to Aberdeen City Council by way of a Section 11 Notice by recorded delivery post on 5 June 2024. The Tribunal was therefore satisfied that procedurally the application met the requirements for the granting of an order for eviction subject to it being reasonable in the circumstances to grant the order.

24. In reaching a decision on reasonableness the Tribunal took account of the circumstances of both parties. On the one hand the Applicants wished to retire from their property letting business and realise their capital. They explained that this had always been their intention and that given their ages they wished to dispose of their properties over a period of time and that the Respondent's property would be easier to sell than some of their other properties. On the other hand, the Respondent did not have the resources to move to another private let due to being a full-time student and not being in employment and not having a guarantor. In addition, the Respondent had her three children living with her. The Tribunal was satisfied from the information provided that the Respondent would be given assistance by Aberdeen City Council with the provision of accommodation for herself and her children if an order for eviction was granted but that it was not known if that accommodation would be temporary or permanent and how long it might take the Council to find suitable accommodation.
25. After carefully balancing the needs of both parties the Tribunal determined that given the age and circumstances of the Applicants it was reasonable to grant the order sought but that in order to give the Respondent an adequate opportunity to be rehoused by the local authority the enforcement of an order for eviction should be suspended for a period of ten weeks until 30 April 2025.

### **Decision**

26. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing finds the Applicants entitled to an order for the eviction of the Respondent from the property but that enforcement of the order should not take place before 30 April 2025.

### **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.

Graham Harding

Graham Harding  
Legal Member/Chair

19 February 2025  
Date