



**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/24/3463**

**Re: Property at Flat 8 Wade Court, 65-67 Commissioner Street, Crieff, Perthshire, PH7 4DA (“the Property”)**

**Parties:**

**Loch Rannoch Properties Limited, 55 Commissioner Street, Crieff, Perthshire, PH7 3AY (“the Applicant”)**

**Scott Penman, Flat 8 Wade Court, 65-67 Commissioner Street, Crieff, Perthshire, PH7 4DA (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member) and Mary Lyden (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 23 October 2024 the applicant seeks an order for eviction on the ground that they intend to sell the property.
2. The applicant lodged the following documents with the application:
  - Copy tenancy agreement
  - Rent statement
  - Notice to leave with proof of service
  - S11 notice with proof of delivery
  - Quotes for Engineering Services relating to a Lift installation

- Valuation summary from J&E Shepherd surveyors
3. A case management discussion (“cmd”) was assigned for 16 April 2025

### **Case management discussion – 16 April 2025- teleconference**

4. Neil Smith, an employee of the applicant attended with the applicant’s legal representative, Mr Gray from Gilson Gray solicitors. The respondent was not present or represented. The Tribunal noted that papers notifying the respondent of the cmd had been served on him by Sheriff Officers on 10 March 2025. The Tribunal was satisfied that the respondent had been properly notified of the cmd in terms of rule 24.1 and proceeded with the cmd in his absence in terms of rule 29.
5. Ms Gray sought an order for eviction relying on ground 1. He stated that the applicant’s intention remained to sell the property. Mr Smith confirmed that the applicant owned all 9 flats in the apartment block. The applicant intended to sell the flats in order to fund other business activities. Mr Smith stated that the flat occupied by the respondent had the prime position in the building with the best views and it was intended to redecorate it as a show flat. The applicant intended to install a lift in the building to increase the properties’ marketability. Mr Gray stated that the applicant intended to market the respondent’s flat first as a bell weather to see what price was achievable for the other properties. Mr Smith stated that the other tenants within the block had been written to and given the opportunity to purchase the flats they occupied.
6. In relation to reasonableness Mr Gray referred to his written submission and the rent account which had been submitted. He stated that the rent arrears were currently £5468. He stated that the respondent had been in arrears for a number of years. A previous notice to leave had been served relating to rent arrears. A repayment arrangement had been entered into at that time which was not adhered to by the respondent. As far as Mr Gray was aware there were no outstanding issues with benefits applications. A payment from a local authority discretionary fund had reduced the arrears in January 2024 however the underlying pattern was that the respondent failed to make payment of his rent on a regular basis. Mr Gray stated that there had been other issues with the conduct of the tenancy. He referred to complaints that had been received

regarding substance misuse in the property. Mr Smith confirmed that there had been contact with the respondent's family and that they had tried to assist the respondent without success. Mr Smith stated that he was aware that the respondent had recently commenced part time employment.

### **Findings in fact and law**

7. Parties entered into a private rented tenancy agreement with a commencement date of 2 November 2018.
8. The applicant is the sole owner of the property.
9. The applicant intends to sell the property.
10. The respondent lives alone in the property.
11. Rent arrears currently amount to £5468.
12. Monthly rent is £670.
13. The respondent has not lodged any opposition to the present application.
14. It is reasonable to grant an order for eviction.

### **Reasons for the decision**

15. Rule 18 states:

*Power to determine the proceedings without a hearing*

**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*

*(b) must make a decision without a hearing where the decision relates to—*

*(i) correcting; or*

*(ii) reviewing on a point of law,*

*a decision made by the First-tier Tribunal.*

*(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.*

16. The Tribunal was satisfied that having regard to the undisputed facts of the case it was able to make a determination and that it was not contrary to the expressed interests of parties to make a determination without the need for a further hearing.

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 took into account the application and accompanying documents together with the submissions of Mr Gray and Mr Smith at the cmd. The Tribunal accepted the evidence which included a valuation from surveyors 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 gave significant weight to the large amount of rent arrears. The respondent had been in rent arrears for a number of years. Arrears continued to rise. The respondent had failed to sustain payments of rent or payments towards the arrears balance. The arrears had a negative impact on the applicant's finances.
22. The Tribunal gave weight to the respondent's personal circumstances. From the information provided by the applicant the Tribunal noted that the respondent had lived alone in the property since 2018. He appeared to have issues with substance misuse which his family were aware of. Efforts had been made to engage with the respondent by his family without success. It was indicated that he had recently commenced part time employment.
23. Given the lack of opposition to the application 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**

**– Date: 16 April 2025**