

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014 and Section 18 of the Housing (Scotland) Act 1988.

Chamber Ref: FTS/HPC/EV/24/3592

Re: Property at 177A High Street, Linlithgow EH49 7EN (“the Property”)

Parties:

Mr Terence Walker and Mrs Heather Walker Gibb, both residing at 4 Traquair Park East, Edinburgh, EH12 7AW (“the Applicants”); and

Ennova Limited, 26 George Square, Edinburgh, EH8 9LD (“the Applicants’ Representative”) and

Ms Ann Marie Dyer 177A High Street, Linlithgow, EH49 7EN (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

A Moore- Ordinary Member

Decision in the absence of the Respondent:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines to grant the Application.

Background and Case Management Discussion on 25th March 2025

1. This Application has been brought in terms of Rule 65 (Application for an order for possession in relation to assured tenancies) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).
2. The parties entered into a short-assured tenancy agreement with a commencement date of 1st August 2007. The Applicants, through their Representative, served a Notice to Quit the Property, no later than 1st August 2024, upon the Respondent Ms Dyer, as well as a Notice of intention to raise Tribunal proceedings for possession of the Property, on 28th May 2024. The

latter Notice stated that proceedings were to be raised on the basis of Grounds 6 and 14 in Schedule 5 to the Housing (Scotland) Act 1988 (“the 1988 Act”), principally that the Applicants wish to carry out substantial improvement works on the Property and that the work can only be carried out if the tenant gives up possession of the Property. The Representative subsequently lodged this Application with the Tribunal and, in particular, in support of the Application lodged an undated quote from Thomas Gray Joinery (Scotland) Ltd setting out details of substantial works which the Applicants propose to carry out.

3. A Case Management Discussion (“CMD”) proceeded by remote tele-conference call at 10.00am on 25th March 2025. The Applicants’ Representative’s Mr C Webber attended. The Respondent Ms Dyer did not attend and was not represented. The Tribunal noted that Sheriff Officers had served copies of the Application papers, and notification of the CMD, on Ms Dyer personally at the Property on 12th February 2025.
4. Mr Webber stated that he did not expect Ms Dyer to attend at the CMD. He said that Mr and Mrs Walker and Ms Dyer are on good terms and that within the last couple of weeks Ms Dyer told them that she would not attend the CMD as she wishes to move out of the Property. Mr Webber said that he understood that Ms Dyer was not in work and that her rent payments for the Property were made through her benefit award. He said that she has an adult son who used to reside with her but has recently moved out of the Property. Mr Webber stated that he was not aware of Ms Dyer having any health conditions. He referred to the Application papers and asked the Tribunal to grant an eviction order to enable the Applicants to recover the Property and carry out substantial works there.

Findings in Fact and Law

5. The parties have a tenancy agreement which began on 1st August 2007.
6. The Applicants Mr Terence Walker and Mrs Heather Walker Gibb wish to recover possession of the Property in order to carry out substantial works there. Given the nature of the works the Respondent Ms Dyer could not remain resident in the Property whilst those works are being carried out.
7. The principal Ground upon which the Application proceeds, namely Ground 6 in Schedule 5 to the 1988 Act, is satisfied.
8. It is reasonable that an order for possession is granted given the Applicants’ stated wish to carry out works. The Respondent has not objected to the Applicants’ wish to do so.

Reasons for Decision

9. Section 16 of the Housing (Scotland) Act 2014 provides as follows:
“16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

10. Accordingly, the Tribunal now has jurisdiction in relation to claims by landlords, such as the Applicants, against tenants, such as the Respondent, for possession relating to a tenancy agreement, such as the parties' tenancy agreement.

11. In terms of Section 18 of the 1988 Act the Tribunal shall not make an order for possession of a house let on a tenancy except on one or more of the grounds set out in Schedule 5 to the 1988 Act.

12. Ground 6 in Schedule 5 to the 1988 Act provides that it is an eviction ground that a landlord intends to carry out substantial works on the house and that they cannot carry out the intended works without the tenant giving up possession of the house.

13. Given the terms of the Application papers, in particular the quote from Thomas Gray Joinery (Scotland) Ltd, which set out proposed works with a total cost of £28,350.00, the Tribunal found in fact and law that Ground 6 in Schedule 5 to the 1988 Act is satisfied. As Ms Dyer has not engaged with the Tribunal in respect of the Application, and has not made any representations or attended at the CMD, to oppose or state a contradiction to the terms of the Application, and relying on the submission of Mr Webber, the Tribunal decided that it was reasonable to grant an eviction order.

Decision

14. The Tribunal grants 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.

G McWilliams

25th March 2025

Tribunal Legal Member

Date