

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 51 and Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”)

Ref: FTS/HPC/EV/24/3673

Re: 69 The Crescent, Gowkshill, EH23 4PR (the Property)

Parties:

Greysheď Properties Limited, Unit B Wallyford Industrial Estate, Wallyford, EH21 8QJ (the Applicant)

Ennova Limited, 26 George Square, Edinburgh, EH8 9LD (the Applicant’s Representative)

Mr John Goulding, 69 the Crescent, Gowkshill, EH23 4PR (the Respondent)

Tribunal Members:

Ms Susanne L. M. Tanner K.C. (Legal Member)

Mrs Helen Barclay (Ordinary Member)

Decision

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

(1) was satisfied that Ground 1 in Schedule 3, Part 1 to the 2016 Act was established by the Applicant, in that on the day the tribunal considered the application for an eviction on its merits: the Applicant intends to sell the let Property for market value, or at least put it up for sale within three months of the Respondent ceasing to occupy it; and that it was reasonable to make an eviction order in the circumstances; and made an order for eviction in terms of Section 51 of the 2016 Act.

(2) The decision of the tribunal was unanimous.

Statement of Reasons

Procedural Background

1. The Applicant's Representative made an application to the tribunal on 12 August 2024 in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act") and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 ("the 2017 Rules"). The Applicants seek the Respondent's eviction from the Property under Ground 1 of Schedule 3.
2. The Applicant's Representative provided the following documents in support of the Application:
 - 2.1. Copy Private Residential Tenancy agreement;
 - 2.2. Copy Notice to Leave and proof of delivery;
 - 2.3. Copy section 11 Notice to the Local Authority with proof of delivery; and
 - 2.4. Sales and marketing proposal for the Property.
3. On 2 September 2024, the application was accepted for determination and the tribunal sent letters of notification dated 11 February 2025 to all parties with the date, time and arrangements for joining the Case Management Discussion ("CMD") in relation to the Application on 31 March 2025 by teleconference at 1400h. The Application paperwork was personally served on the Respondent by Sheriff Officers on 12 February 2025. The Respondent was told that if he wished to submit written representations these should be sent to the tribunal by 4 March 2025. It was sent to the Respondent on 21 March 2025.
4. On 11 March 2025, the Applicant's Representative sent an additional bundle of documents to the tribunal's administration in relation to this case and the related civil Application. Due to an administrative oversight by the tribunal's administration these were not sent to the tribunal until 1340 on the day of the CMD (21 March 2025). They were sent to the Respondent by mail on 21 March 2025.
5. The Respondent did not submit any written representations, or make any contact with the tribunal prior to the CMD.

CMD: 21 March 2025, 1400h, Teleconference

6. Mr Correy Webber, Solicitor, Ennova Law, attended as the Applicant's Representative.

7. The Respondent did not attend. The tribunal was satisfied that he had received notification of the CMD in terms of Rule 24 of the 2017 Rules and proceeded in his absence, on the representations of the party present and all material before it.

Submissions by the Applicant's Representative

8. Mr Webber said that the reason for seeking the Respondent's eviction is solely that the Applicant landlord intends to sell the Property. He said that the company has gone through a re-structuring process in which the father has stepped down and given the whole company over to his son. There has been a decision to re-brand as Greyshe'd Properties Limited. There is a move away from the residential market. It was a company wide decision across the board to dispose of the residential properties. The sale of the residential properties will be used to minimise the outstanding balance of a bank loan agreement. The date of the Notice to Leave is 2 May 2024. The notice period was until 28 July 2024. A section 11 notice was issued on 1 August 2024. The Application was made on 12 August 2024.
9. The same solicitor has acted for the client for the sale of five out of the eight to ten residential properties. The firm has advised the Applicant that nothing will be done to market the Property until there is vacant possession.
10. Mr Webber moved for the eviction order. He submitted that the grounds have been met. He submitted it is reasonable based on the Applicant's business decision. He stated that the tenant also has some rent arrears but they are considerably lower than they were when the Application was made. The Respondent made a payment of around £3000 in August 2024 to reduce the arrears. He has been paying an additional £30 per month since September 2024. The solicitor received an email from the Respondent on 22 February 2025 stating that there was no problem and that the arrears would be paid off. As at 11 March 2025, the rent arrears were £1030, which included the £720 rent payment due on 9 March 2025 which was not paid by 11 March 2025. Mr Webber said that he would be seeking to amend the sum in the related CV case downwards to £1030.00 for the current arrears. Mr Webber said that nothing was said to the respondent to indicate that the Applicant would not proceed to seek an eviction if arrears were paid. This is a company wide decision to come out of the residential market rather than anything to do with the Respondent or arrears.
11. In response to questions from the tribunal, Mr Webber confirmed that the Respondent has made the Applicant aware that there is a two year old child in the Property. Mr Webber believes that the Respondent is employed or self-employed. He does not know if the Respondent's wife is working. No-one in the Property has a disability which has required adaptations, so far as he is aware.

12. The tribunal makes the following findings-in-fact:

- 12.1. The Applicant is the registered proprietor of the Property.
- 12.2. There is a private residential tenancy agreement between the Applicant and the Respondent for the Property which started on 9 August 2019.
- 12.3. The date of the Notice to Leave is 2 May 2024. The notice period was until 28 July 2024. Ground 1 of Schedule 3 to the 2016 Act was in the Notice to Leave.
- 12.4. A section 11 notice was issued on 1 August 2024.
- 12.5. The Application was made on 12 August 2024.
- 12.6. The Applicant to sell the Property on the open market or at least market it for sale within three months of vacant possession.
- 12.7. The Applicant has instructed a solicitor in relation to the sale.
- 12.8. The Respondent resides in the property with his family, which includes a two year old child.
- 12.9. The Respondent is employed or self-employed.
- 12.10. As at 11 March 2025 there were rent arrears of £1030.00.
- 12.11. The Respondent has not stated any defence to the Application.

13. Findings in fact and law

- 13.1. The tribunal is satisfied that the facts required in paragraph 1 of Schedule 3 to the 2016 Act have been established.
- 13.2. The tribunal is satisfied that it is reasonable to make an order for eviction.

Discussion

14. The order for eviction is sought in terms of Section 51 and paragraph 1 of Schedule 3 to the 2016 Act.
15. The Respondent has not stated any defence to the Application.
16. The tribunal was satisfied that the requirements of those provisions have been met.
17. In relation to reasonableness, reference is made to the tribunal's findings in fact. The tribunal was satisfied that it was reasonable to evict the Respondent in the circumstances of the case.

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.

Susanne L. M. Tanner K.C.

21 March 2025

Ms. Susanne L. M. Tanner K.C.
Legal Member/Chair