



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/24/4344

Re: Property at 10A Moorburn Place, Linwood, PA3 3SH (“the Property”)

Parties:

Bank of Scotland, The Mound, Edinburgh, EH1 1YZ (“the Applicant”)

Ms Teresa Smith, 10A Moorburn Place, Linwood, PA3 3SH (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Melanie Booth (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction should be granted.

Background

1. On 13th September 2024 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 2 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - i. Copy Private Residential Tenancy Agreement showing a commencement date of 2nd November 2019 and a rent of £400 per month;
 - ii. Copy Notice to Leave dated 2nd May 2024;
 - iii. Sheriff Officer Certificate of Service of the Notice to Leave;
 - iv. Section 11 Notice and proof of service;
 - v. Copy Form BB dated 15th June 2023;

- vi. Copy Decree for possession dated 7th November 2023.
- 3. The Tribunal's Administration obtained a copy of the title deeds which showed that Calum Watt was the proprietor of the property and that he had granted a Standard Security in favour of Halifax plc, which was registered on 2nd July 2007.
- 4. The Application was served on the Respondent by Sheriff Officers on 25th February 2025.
- 5. On 28th March 2025 the Respondent sent an email to the Tribunal stating her position.

Case Management Discussion

- 6. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Miss McDonald of Aberdeen Considine, Solicitors. The Respondent dialled in and represented herself.
- 7. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
- 8. Miss McDonald sought an order for eviction in terms of ground 2 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. She said that the Applicant had gone through the proper procedures. They had served Notice BB on the Respondent when they applied for the Repossession Order. They served a Notice to Leave on the Respondent on 9th May 2024. They had established the ground, and given how much notice the Respondent had had, she submitted that it was reasonable to grant the order. Miss McDonald also explained that the Respondent had been in email contact with her office and had said she was looking for a private rental but nothing suitable had come up.
- 9. The Respondent said that she appreciated that she would need to move out of the property, however she was having difficulty in finding somewhere suitable to rent. She is a single mum with two children, and she cannot afford the rents for private lets of the size she will need. Rents locally have shot up. They are also looking for one month's rent and the deposit up front, and she cannot afford that. She said that she does get Housing Benefit for the amount the local authority pays for a two bedrooomed property. She has to pay a top up of £50 per month to the landlord (Mr Watt). This is deducted from her benefits and paid to him direct. She has no control over it. She has explained to the DWP that the property has been repossessed but they have told her that they cannot alter the payment unless the landlord gives permission. She said that the local authority will not assist with housing until she has an eviction order against her.

10. The Respondent said that her children are aged 12 and 7. She needs to stay in Linwood as the children are at school there and doing well, and she has built a life for herself there. The children do not have any special needs.

Findings in Fact

- a. The Respondent entered into a Private Residential Tenancy Agreement with Calum Watt with a commencement date of 2nd November 2019 and a rent of £400 per month;
- b. The said Calum Watt Standard Security over the property in favour of Halifax plc which was registered on 2nd July 2007;
- c. The Applicant obtained a Decree for possession of the property against the said Calum Watt, dated 7th November 2023, from Paisley Sheriff Court;
- d. Said Decree narrates how the Applicant has acquired the right to enforce the Standard Security, said security having been granted in favour of Halifax plc;
- e. A Notice To Leave, dated 2nd May 2024, was served timeously and correctly;
- f. A section 11 notice was served on the local authority;
- g. The Application was served on the Respondent by Sheriff Officer on 25th February 2025;
- h. The Applicant requires the tenant to leave the property for the purpose of disposing of it with vacant possession;
- i. The respondent is a single mother and lives in the property with her two children, who are at school locally.

Reasons for Decision

11. Ground 2 of Schedule 3 of the Act is as follows:

2(1)It is an eviction ground that a lender intends to sell the let property.

(2)The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—

(a)the let property is subject to a heritable security,

(b)the creditor under that security is entitled to sell the property,

(c)the creditor requires the tenant to leave the property for the purpose of disposing of it with vacant possession , and

(d)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

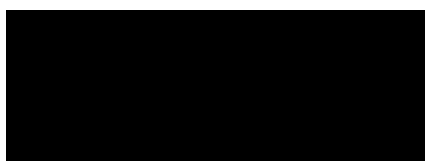
12. The Tribunal were satisfied that the Applicant had gone through all the procedures and had a Decree for Possession and that Ground 2 had been

established to that extent. The Tribunal also decided that it was reasonable to grant the order as the Applicants had no duty to provide the Respondent with accommodation, and she had received a lengthy amount of notice.

13. The Tribunal did have sympathy with the Respondent's position regarding attempting to find new accommodation. She had clearly tried but was encountering obstacles. The Tribunal therefore decided that it would be reasonable to suspend extract of the eviction order for a period of three months, meaning that the Respondent cannot be evicted from the property before 11th July 2025. Hopefully this will allow some time for the local authority to assist.

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.



Legal Member/Chair

11.04.25

Date