

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 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/3613

Property : Flat 10/2, 45 Mitchell Street, Glasgow G1 3LA ("Property")

Parties:

Blantyer Ltd, 16 Blantyre Terrace, Edinburgh EH10 5AE ("Applicant")

Felix Chinedu Kwaku and Jaden Mejeh, Flat 10/2, 45 Mitchell Street, Glasgow G1 3LA ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined to make an order for possession of the Property.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement which commenced on 26 January 2024; Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 4 July 2024 ("Notice to Leave"); copy email from the Applicant to each Respondent attaching the Notice to Leave dated 4 July 2024; communications with Aberdeen Considine regarding the marketing of the Property dated 10 July 2024 and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email. A Case Management Discussion ("CMD") was fixed for 14 April 2025. The Application was served on the Respondent by sheriff officer on 7 March 2025.

Case Management Discussion

A CMD took place before the Tribunal on 14 April 2025 by teleconference. Rebecca Fordwood of the Applicant was in attendance as were both Respondents.

Mr Kwaku told the Tribunal that he did not oppose the grant of an order but wanted to agree a way forward. Mr Mejuh said that was also his position.

Ms Fordwood told the Tribunal that the Applicant wished to sell the Property. She said it had been purchased in 2018 to be used as an Airbnb which did well until the covid pandemic. She said thereafter she was told that the Property may not qualify under the new legislation to be a short term let so the Applicant moved to longer term lets. She said the Property was let to one tenant before the Respondent took up the tenancy. She said that the Respondents had been inconsistent in paying the rent and the arrears were currently £3625 and she had no clarity as to when the arrears would be paid. She said the Property is a penthouse flat. She said it was being marketed but her agents had told her they would not carry out any further viewings whilst the Property continued to be occupied. Ms Fordwood told the Tribunal that the Applicant owns 12 other properties.

Mr Kwaku told the Tribunal that he and Mr Mejuh lived in the Property alone. He confirmed that the rent arrears are £3625. He said that both Respondents are actors. He said that he also works in a hotel. He said he can afford to pay the rent going forward. Mr Mejuh said that he has various roles in creative industries and is awaiting payment for work carried out. Mr Kwaku said that both Respondents are from London and had moved to Glasgow in 2022. He said their plan is to stay in Glasgow long term.

Mr Kwaku said that the Respondent had been looking for alternative accommodation in the private rented sector and in social housing. He said that the Respondent would prefer to continue to live in the city centre. When asked if the Respondent had any advice about social housing Mr Kwaku said that he had been in touch with Glasgow City Council. He said they on their advice the Respondent had viewed a property with Lowther Housing in the West End and were waiting to hear further. Mr Kwaku said he wanted more time to identify alternative accommodation and for him to gather funds to pay the deposit on a new property.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property which commenced on 26 January 2024.
2. A Notice to Leave was served on the Respondent by email on 4 July 2024. It stated that an application for an eviction order would not be submitted to the Tribunal before 4 August 2024.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

4. The Applicant holds title to the Property and is entitled to sell the Property.
5. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

Reasons for the Decision

In terms of section 51 of the Act, the Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell the Property. The evidence lodged with the application of intention to sell was communications with Aberdein Considine regarding the marketing of the Property dated 10 July 2024. Ms Fordwood had explained to the Tribunal the reasons for the Applicant wishing to sell. The Tribunal considered the evidence provided and determined that the ground for eviction had been established.

The Tribunal considered the question of reasonableness as set out in the documents lodged and the oral submissions from the Parties. The Respondent did not oppose the order being granted but wished additional time to identify alternative accommodation. The Tribunal noted however that it had been over 8 months since the application had been lodged with the Tribunal. The Tribunal considered that adequate time had already been given. In the circumstances, the Tribunal determined that it was reasonable to grant an order for possession of the Property.

Decision

The Tribunal determined to grant an order for possession of the Property.

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.