



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51(1) of the Private Housing
(Tenancies)(Scotland)Act 2016**

Chamber Ref: FTS/HPC/EV/24/4215

Re: Property at 20 Minto Street, Lochgelly, Fife, KY5 9DF (“the Property”)

Parties:

**Mr Lawrence Hopkins, Mrs Julie-Anne Hopkins, 24 Thimblehall Drive,
Dumferline, Fife, KY12 7UD; 24 Thimblehall Drive, Dumferline, Fife, KY12 7UD
 (“the Applicant”)**

**Mrs Angela Rankine, 20 Minto Street, Lochgelly, Fife, KY5 9DF (“the
Respondent”)**

Tribunal Members:

Yvonne McKenna (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an Order for Eviction is Granted in favour of the
Applicant against the Respondent.**

Background

1. By application to the Tribunal dated 8 September 2024 the Applicant sought an eviction order against the Respondent under ground 1A of Schedule 3 of the Private Housing Tenancies (Scotland) Act 2016 (“the 2016 Act”).
2. In support of the application the Applicant submitted the following:-
 - (i) Copy Private Residential Tenancy Agreement (PRT) between the parties with a start date of 1 December 2019;
 - (ii) Notice to Leave dated 15 February 2024, confirming that proceedings would not be raised any earlier than 13 May 2024 and signed confirmation of delivery of the Notice to Leave by the Respondent dated that same date;

(iii) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 to Fife Council and proof of delivery;
(iv) Letter from the Applicants' accountant;
(v) Bank statements for the Applicant showing the rent received for the Property and the mortgage payments due;
(vi) Valuation report;
(vii) Confirmation of the insurance paid by the Applicant for the Property, along with ancillary costs for the boiler and a door within the Property;
(viii) Confirmation from 'Yopa' that they have been engaged by the Applicant to sell the Property.

3. The Tribunal was also in receipt of the Title Sheet which confirmed the Applicant to be the registered owner of the property.

4. By Notice of Acceptance of application dated 25 November 2024, a Legal Member with delegated powers from the Chamber President intimated that there were no grounds upon which to reject the application.

5. The application was therefore referred to a Case Management Discussion ('CMD'); to take place on 8 April 2025 by teleconference at 10am. Notification of the CMD was given to the parties in accordance with Rule 17(2) of the First-tier Tribunal (Housing and Property Chamber) Rules of Procedure 2017.

The Case Management Discussion

6. At the CMD, which took place by telephone conference on 8 April 2025, the Applicant was present. The Respondent was not present.

7. The Respondent had not lodged any written representations.

8. The Applicant said that they had experienced some difficulty in communicating directly with the Respondent. She did not have a mobile telephone for a long period. They had heard through the Respondent's 'Housing Options Officer' that she was not contesting the application, and that she would not be participating in the process.

9. The Respondent had a fall downstairs at the Property after tripping on a carpet, and had spent a brief time in hospital. She is now temporarily living with her son, in her son's accommodation, as it is on the ground floor. The Property is an upstairs flat. It is believed that Respondent does not want to reside in the Property any longer. She is understood to be in her late 60s. She suffers from COPD, and has not been keeping very well. She does not work and is reliant on benefits. The rent for the Property is paid by the local authority direct to the Applicant, via housing benefit. The Housing Officer has told the Applicant that the Respondent is actively looking for property elsewhere. She resides ordinarily alone. Albeit she is understood to be residing temporarily with her son the Respondent has been coming to and from the Property recently.

10. Mrs. Hopkins is employed as a nurse, and has required to reduce her hours for her own health reasons. She has gone from being in full-time employment as a nurse, to only being in part time employment.

11. Owning, and renting out the Property has caused financial strain on the Applicant and their family. They have wanted to sell the Property for some time. With interest rates being so high, they have been experiencing 'year on year' loss. The mortgage over the Property is interest only. After the Applicant pays for their own mortgage, as well as two car payments, and the mortgage over the Property and one other rented property, there is literally no money left. They require to support themselves, and their two children, who are 15 and 9 years of age. The Applicant previously owned four properties. Two have already been sold. They intend to sell the Property as soon as the Order is granted, and to sell the remaining property over the next financial year. The Applicant intends to exit the private landlord market, as it has proved to be not financially viable. The Applicant sought the Order for Eviction.

Findings in Fact

12. The Applicant is the heritable proprietor of the Property.

13. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 1 December 2019.

14. The rent payable in terms of the PRT is £400 per calendar month.

15. On 15 February 2024, the Applicant served on the Respondent a Notice to Leave dated 15 February 2024, requiring the Respondent remove from the Property by 13 May 2024. The Notice to Leave was served on the basis that the Applicant requires to sell the Property to alleviate financial hardship.

16. The Applicant has served on Fife Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

17. The Respondent is still in occupation of the Property.

18. The Applicant has title to sell the Property.

19. The Applicant has instructed Yopa to sell the Property.

20. The Applicant intends to conclude the sale of the property within three months of the Respondent ceasing to occupy.

21. The Applicant is in strained financial circumstances. Mrs Hopkins has, for health reasons required to curtail her working hours. She has gone from full-time to part-time employment, as a nurse. After the Applicant has paid for their own mortgage and the mortgage on the Property, and another rented flat which they lease out, and paid for two car loans, there is no money left.

22. The Applicant requires to support themselves and their two children aged 15 and 9 years.

23. The Respondent is unemployed and in receipt of benefits.

24. The Respondent resides at the Property alone.

25. The Respondent has recently fallen at the Property, and spent a brief period in hospital. Since then, she has been residing temporarily with her son, in a ground floor property.

26. The Respondent has other health needs including COPD.

Reasons for Decision

27. The application before the Tribunal was accompanied by a Notice to Leave which confirmed the Applicant's intention to rely upon Ground 1A of Schedule 3 of the 2016 Act. The Notice to Leave was in the prescribed form and had been competently served upon the Respondent. The Tribunal was therefore satisfied that it could entertain the application under section 52(3) of the 2016 Act.

28. The application proceeds upon Ground 1 A of Schedule 3 of the 2016 Act. Ground 1A states:-

(1)It is an eviction ground that the landlord intends to sell the let property to alleviate financial hardship.

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

(a)the landlord—

(i)is entitled to sell the let property,

(ii)is suffering financial hardship, and

(iii)intends to alleviate that hardship by selling the let property for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and

(b)the Tribunal is satisfied that it is reasonable to issue an eviction order.

(3)Evidence tending to show that the landlord has the intention mentioned in sub-paragraph

(2)(a)(iii) includes (for example)—

(a)a letter of advice from an approved money advisor or a local authority debt advice service,

(b)a letter of advice from an independent financial advisor,

(c)a letter of advice from a chartered accountant,

(d)a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(e)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, and

(f)an affidavit stating that the landlord has that intention.

29. In respect of ground 1A, the Applicant is entitled to sell the Property, being the heritable proprietor thereof. Sub-paragraph 2(a) (ii) requires the Applicant to be suffering financial hardship. The Tribunal is so satisfied, based on the documentation produced, and on the Applicant's oral evidence in support thereof. Furthermore the Tribunal requires to be satisfied in terms of sub-paragraph 2 (a) (iii) that the Applicant intends to sell the Property for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it. Sub-paragraph 3 gives examples of the evidence that might be produced to show the landlord has the intention described in sub-paragraph 2(a)(iii). In this instance the Applicant relies upon both written and confirmation from 'Yopa' that they have been engaged to sell the Property. The Tribunal accepts this evidence as sufficient to meet the terms of sub-paragraph 2(a)(iii).

30. The Tribunal also requires to be satisfied that it is reasonable to issue an eviction order in terms of sub-paragraph 2(b). The Tribunal accepted that in assessing whether an eviction order is reasonable it must consider and weigh all available facts relevant to that decision, and that whilst the landlord's intention may be reasonable that did not necessarily mean that it would be reasonable to make an eviction order. The property rights of a landlord should not be given primacy over the occupancy rights of a tenant, and vice versa.

31. In this case the Respondent has not refuted the position that the Applicant does indeed wish to sell the Property, and that they intend to do so to alleviate financial hardship. She has made some contact with the local authority and has been allocated her own Housing Options Officer. In the circumstances the Tribunal finds it reasonable that an order for eviction is granted. The Tribunal determined that it is reasonable to grant an eviction order having regard to the Applicant's own strained financial circumstances. Mrs Hopkins' income has been reduced in going from full-time to part-time employment. The Applicant is struggling to make their own mortgage payments and to look after two children, after paying the interest only mortgage over the Property, and another rented flat. It is evident that the Property has been rented out on a loss for at least the past 12 months.

32. The Tribunal in reaching its decision took into account the application and written representations from the Applicant, together with the submissions and evidence heard at the Case Management Discussion. The Tribunal gave careful consideration to them.

33. With regard to Ground 1A the Tribunal accept for the above reasons that the Applicant is in financial hardship and requires to sell the Property to alleviate financial hardship.

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.

Yvonne McKenna

Yvonne McKenna

8 April 2025

Legal Member/Chair

Date