



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 (“The Act”)

Chamber Ref: FTS/HPC/EV/24/1966

Re: Property at 74/9 Restalrig Road South, Edinburgh, EH7 6LE (“the Property”)

Parties:

Mr Trevor Wilson, Mrs Iryna Wilson, 77 Queens Square, Belfast, Northern Ireland (“the Applicant”)

Ms Arantzazu Mora Bellido, Ms Mercedes Bellido Gonzalez, 74/9 Restalrig Road South, Edinburgh, EH7 6LE (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order which may not be enforced until 31 May 2025.

Background

[2] The Applicants seek an Eviction Order under ground 4 of Schedule 3 of the Act. The Application is accompanied by a copy of the tenancy agreement and the relevant notice to leave with proof of service. The relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 was also produced. The Application had previously called for a Case Management Discussion and the Tribunal made certain case management orders in

the form of Directions and continued the Application for evidence to be heard at a Hearing by video conference as the Applicants reside in Northern Ireland.

The Hearing

[3] The Application called for a Hearing by video conference at 10 am on 4 March 2025. The Applicants were represented by their letting agent, Ms Bruce. Mr Wilson was also in attendance. Ms Wilson did not wish to give evidence. The Respondents were both personally present together with their representative, Ms Bennett of Community Help and Advice Initiative. There was Spanish interpreter present for the benefit of the Respondents. Every word that was said in English was interpreted into Spanish and the Respondents spoke exclusively in Spanish which was interpreted into English. Neither party had any preliminary matters to raise and both were content that the Tribunal start hearing evidence. The Respondents had lodged some medical documentation the day before the Hearing about the Respondents' entitlement to state benefits. Ms Bruce had no objection to that documentation being received. The Tribunal began hearing evidence. Each party had the opportunity to cross examine the other and at the conclusion of evidence, each party had the opportunity to make closing submissions. The Tribunal comments on the evidence heard as follows.

The Applicant's evidence

[4] Mr Wilson explained that he had acquired the Property around ten years ago as an investment following on from receiving an inheritance. He is a science teacher and has been most recently based in Belfast. His wife is a teaching assistant for children with special needs. Their own tenancy in Belfast has recently come to an end. They are having to stay with friends at the moment. They wish to live in the Property because they always wanted to end up living in Scotland during what Mr Wilson described as their semi- retirement. They consider that their employment opportunities would be greatly improved in Edinburgh. Neither of them have any current employment roles secured in Edinburgh. The Applicants own two other properties in Edinburgh. They selected this Property to live in because it is a one bedroom flat which they think would be sufficient for their needs. They also consider that the Property needs to be rennovated which they are willing to undertake while living there. The other properties are both two bedroom flats. Mr Wilson came across as credible and reliable and the Tribunal had no reason to doubt the truthfulness of his evidence.

The Respondent's evidence

[5] Ms Mercedes Bellido Gonzalez is the mother of Ms Arantzazu Mora Bellido who is herself an adult. They both moved from Spain to Edinburgh in order to improve their living standards. They moved into the Property in November 2017 and the tenancy was converted into a Private Residential Tenancy Agreement on 15 February 2020 when Ms

Gonzalez was formally added as a tenant. Ms Bellido is currently unemployed having recently been made redundant. Ms Bennett did mention in her closing submissions that Ms Bellido had recently been offered a new job although Ms Bellido herself did not mention that in her evidence.

[6] Both Respondents live in the Property which has one bedroom and which is on the second floor. Ms Gonzalez is not in good health having previously suffered from cancer and a variety of complicating factors including incontinence. She requires assistance to use the stairs and was described by both Respondents as often staying in the Property all day because of her incontinence. Ms Bellido sleeps in the living room and Ms Gonzalez sleeps in the bedroom. They both are well settled in the area. They both consider that their monthly rent of £650.00 is very good as their own research has led them to believe that they would not be able to find other private lets at this price. They have been in touch with the housing services department of the relevant local authority and are being assisted by the local authority. The Tribunal considered both Respondents to be credible and reliable and had no reason to suspect that they were not being truthful in their evidence.

[7] Having considered the documentary evidence before the Tribunal and having heard evidence and submissions, the Tribunal made the following finding in facts.

Findings in Fact

- 1) *The Applicants let the Property to the Respondents in November 2017. On 15 February 2020, this tenancy was updated to a Private Residential Tenancy Agreement within the meaning of the Act.*
- 2) *The Respondents have resided in the Property continuously since November 2017. They are very happy in the Property and don't wish to move. Ms Gonzalez has serious health issues which affect her mobility and cause her incontinence issues.*
- 3) *Ms Gonzalez sleeps in the bedroom and Ms Bellido sleeps on a sofa in the living room. The Property is a second floor flat. Ms Gonzalez often requires assistance on the stairs meaning that she is somewhat isolated and dependent on the assistance of others to come and go from the Property.*
- 4) *The Property was purchased by the Applicants around ten years ago. They intended to live in Edinburgh at some point. The Applicants now wish to move to Edinburgh to secure better employment opportunities.*

- 5) *The Applicants have competently served a Notice to Leave in terms of Ground 4 of Schedule 3 of the Act and also served the requisite notice in terms of Section 11 of the Homelessness (etc) (Scotland) Act 2003.*

Reasons for Decision

[8] Having made the above findings in fact, the Tribunal considered that ground 4 of Schedule 3 of the Act was established. The Tribunal then went on to consider whether it was reasonable to make an Eviction Order.

[9] In considering the reasonableness or otherwise of making an Eviction Order, the Tribunal noted that the Respondents were concerned about not having alternate accommodation to go to. That was understandable. But it also seemed clear to the Tribunal that they were receiving advice and support from the local authority and based on their evidence, they would likely be reaccommodated by the local authority once an Eviction Order was made. It appeared to the Tribunal that making an Eviction Order would be more likely than not to assist the Respondents in being offered alternate accommodation. That was important to the Tribunal because the Tribunal could not accept that the Property was appropriate for the needs of the Respondents. The Tribunal was concerned that Ms Gonzalez required assistance to come and go from the second floor Property and was at risk on the occasions when her daughter would not be there to help her. Moreover, the fact that one of the Respondents does not have her own bedroom and is obliged to sleep in the living-room reinforces the unsuitability of the Property for the Respondents' current and future needs.

[10] The Tribunal did not conclude that the Applicants' situation deserved to be weighed more heavily in the balance than that of the disruption caused to the Respondents should an Eviction Order be granted. But the Tribunal considered that the current situation whereby Ms Gonzalez is often housebound purely by dint of being on the second floor was unacceptable. The Property was no longer appropriate. This factor tipped the scales and resulted in the Tribunal considering that it was on balance reasonable to make an eviction order. The Tribunal considered that this would in fact give the Respondents the best chance of finding a more suitable alternative home.

[11] The Tribunal granted the Application but considered that it was reasonable to do so on the provision that the order may not be enforced until 31 May 2025. That was with the aim of allowing the local authority more time to find alternate accommodation for the Respondents without having to use short-term homeless accommodation. The extra time would allow the Respondents more time to organise their affairs in the certainly that the tenancy would now officially be ended.

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:

Date: 4th March 2025

A. McLaughlin