



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

Chamber Ref: FTS/HPC/EV/24/3156

Property at 2 Blinkbonny Gardens, Breich, West Calder, EH55 8DN (“the Property”)

Parties:

Mrs Nicole de Pommès, 73 Wyatt Park Road, London, SW2 3TW (“the Applicant”)

Ms Victoria Gromocki, Mr Ethan Harrison, 2 Blinkbonny Gardens, Breich, West Calder, EH55 8DN (“the Respondents”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondents in favour of the Applicant.

Background

- 1. The Applicant seeks an eviction order in terms of Section 51 and Ground 1 of schedule 3 of the 2016 Act. A section 11 notice, tenancy agreement, Notice to leave and contract with the selling agent were submitted with the application.**
- 2. A copy of the application was served on the Respondent, and the parties were notified that a CMD would take place by telephone conference call on 24 March 2025.**
- 3. The CMD took place on 24 March 2025. The Applicant participated and was represented by her husband, Mr de Pommès. The Respondents also both participated.**

Summary of Discussion

4. Ms Gromocki told the Tribunal that she and her son, Mr Harrison, do not oppose the application. She said that she has been trying to get somewhere else to live since they were served with notice last year. However, they have not succeeded. One of the problems appears to be that she is now self-employed and cannot provide proof of income. She approached the Council who said that they could not assist until she is evicted. As a result, she has to wait until the eviction order is granted, before she can leave the property. In response to questions from the Tribunal, Ms Gromocki re-iterated that the application is not opposed. She said that they understand that they are entitled to oppose it, but do not wish to do so.
5. The Legal Member noted that the paperwork lodged with the application appears to be in order. The only issue was that the Notice to leave had only been sent to Ms Gromocki's email address. However, the Applicant had provided a letter from Mr Harrison which asked the Applicant to send the Notice to leave only to that address and a further letter acknowledging receipt of the Notice on 12 April 2024. The Respondents confirmed that this had been the agreed arrangement because Mr Harrison was unable to access his own email account at the time.
6. Mr de Pommes told the Tribunal that the Applicant decided to sell because the mortgage payments have increased and the difference between the rent the mortgage payment is now very small. They also need the equity in the house to pay off a chunk of the mortgage for the property that they live in. He explained that the Respondents are good tenants and that they reduced the rent to £1200 per month from £1350 a couple of years ago when the Respondents were struggling with utilities and other bills. However, they now receive almost no income from renting out the property. Mr de Pommes said that he has three other rental properties and the rent from these is his principal source of income. However, it is likely that he will have to sell them over the next few years for similar reasons. He concluded by saying that the Respondents have been good tenants and that they would not have considered seeking eviction if it had not been necessary.
7. Ms Gromocki said that she resides at the property with her three children. The joint tenant, Mr Harrison, and her two daughters aged 20 and 16. The only health issue is that her son suffers from asthma. She said that she requires a four bedroom property. Mr Harrison confirmed that he is 22 and in employment. Ms Gromocki said that she works from home, for a plumbing company, and earns about £2800 per month. She is not in receipt of universal credit at the present time. Her daughter, who is 20, works part time and her 16 year old daughter is still in education and due to sit exams. She said that she is on the homeless list at the Council but won't be offered something until the order is granted.
8. The Legal Member explained that the Tribunal could order a delay in execution of the eviction order, if this is granted. It was suggested that a delay until after the exam period had concluded might be beneficial. Ms Gronocki said that she

did not want the Tribunal to consider a delay and did not feel that this would be of benefit.

Findings in Fact

9. The Applicant is the owner and landlord of the property.
10. The Respondents are the tenants of the property.
11. The Applicant wishes to sell the property as the difference between the rental income and the mortgage payment has reduced to a negligible amount. She also requires the equity in the property to re-pay part of the mortgage on the property she occupies.
12. The Applicant served a Notice to leave on the Respondents on 12 April 2025.
13. The Respondents have not secured alternative accommodation but do not oppose the application. They hope to be provided with accommodation by the Local Authority and have made an application.
14. The Respondents are mother and son and live in the property with the First Respondents other two children aged 20 and 16.
15. The First Respondent is self-employed. The Second Respondent and his 20 year old sister are in employment. The 16-year-old child is still in education.

Reasons for Decision

16. The application was submitted with a Notice to Leave dated 10 April 2024, together with a copy of an email which establishes that the Notice was sent to the Respondents on 12 April 2024. The Notice states that an application to the Tribunal is to be made on ground 1, the landlord intends to sell the let property.
17. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice which was sent to the Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
18. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
19. Ground 1 of schedule 3 (as amended) states, "(1) It is an eviction ground that the landlord intends to sell the let property. (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord – (a) is entitled to sell the let property, (b) intends to sell it for market value or at least

put it up for sale within 3 months of the tenant ceasing to occupy it, and (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”

20. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Applicant intends to sell the property and that ground 1 is established.
21. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted that the Applicant provided valid reasons for selling the property. However, the Respondents have not managed to obtain alternative accommodation. They also require a property which will accommodate a family of three adults and one child. The 16-year-old is at a crucial stage in her education, so eviction is likely to be disruptive. However, the Respondents were quite clear that the application is not opposed. This factor outweighs the effect that the order is likely to have on the Respondent and her family. This lack of opposition, together with the Applicant's reasons for selling the property, lead the Tribunal to conclude that it would be reasonable to grant the order for eviction.
22. The Tribunal might have been minded to consider a delay in execution of the order, perhaps until the forthcoming exam period has passed. However, the first Respondent told the Tribunal that this is not required.
23. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act and that ground 1 has been established. For the reasons outlined in paragraph 21, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

24. The Tribunal determines that an eviction order should be granted against the Respondent.

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.

Ruth O'Hare

