

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

Chamber Ref: FTS/HPC/EV/24/4908

Re: Property at 52 Springhill Avenue, Coatbridge, ML5 5PZ (“the Property”)

Parties:

Mr Josh Wilson, 1/1 11 Rhindmuir Gate, Baillieston, G69 6EW (“the Applicant”)

Mrs Donna Bradley, Mr Donald Taylor, 52 Springhill Avenue, Coatbridge, ML5 2PZ (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.

This is an application under Rule 109 and section 51(1) of the Act in respect of the Applicants’ intention to sell the Property and for eviction and recovery of possession on Ground 1 of Schedule 3 to the Act.

The Tribunal had regard to the following documents lodged in advance of the Hearing:

1. Application received 22 October 2024;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 17 December 2021;
3. Notice to Leave dated 26 June 2024 and served by Sheriff Officers on 25 June 2024;
4. Section 11 Notice and email serving on local authority dated 9 October 2024;
5. Correspondence from estate agents dated 30 April 2024.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 13 May 2025. The Applicant did not participate but was represented by Ms Nicola Brechany, Solicitor. The Respondents participated and represented themselves.

Preliminary Matters

The Tribunal queried why Mr Taylor had been included as a Respondent given he was not a named tenant in the PRTA. Mr Taylor's position was that he should have been named and that this was an error in the documentation.

The Notice to Leave post-dated the date of service on the Respondents. Ms Brechany confirmed that Sheriff Officers had been instructed to serve on 26 June 2024 but had served a day earlier. The documents had been dated on the expected date of service. This did not affect the validity of the notice.

The Respondents' position

The Respondents did not seek to oppose the order for recovery of possession.

They live in the Property along with their 19 year old daughter and 14 year old son. Ms Bradley's parents lived next door to the Property and the Respondents were carers for them.

They have been in contact with the local authority housing department regarding progress of their housing application.

The Applicant's position

The Applicant's position was that he had borrowed money to facilitate the purchase of the Property in 2021 from his mother. His mother was ill and now required repayment of the money borrowed. The only way this could be financed was by the sale of the Property.

If the Property were not sold then there was a risk that his mother may lose her home as she needed the funds.

The Applicant lives in his own Property along with his partner, son aged 9 and daughters aged 2 and 1.

Decision and Reasons

The Tribunal considered the documentary evidence and agreement between the Parties.

The Tribunal had regard to the terms of Ground 1:

Landlord intends to sell

1(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.

(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

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

(b) 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.

In so far as material the Tribunal made the following findings in fact:

1. Private Residential Tenancy Agreement (**PRTA**) commencing 17 December 2021;
2. Notice to Leave was dated 26 June 2024 and served by Sheriff Officer on 25 June 2024;
3. Section 11 Notice was served by email on local authority dated 9 October 2024;
4. The Applicant had engaged estate agents;
5. The Applicant is the owner of the Property and intends to sell it or at least put it up for sale within 3 months of the Respondent ceasing to occupy it;
6. The Applicant needs to repay monies borrowed from his mother to facilitate the purchase of the Property;
7. The Applicant's mother is ill and needs the money to cover her living expenses;
8. The Respondents did not oppose the order being granted;
9. The Respondents are in contact with the local authority housing department regarding rehousing;
10. The Respondents live in the Property with their daughter aged 19 and son aged 14. Ms Bradley's parents live next door and the Respondents are their carers.

The Tribunal accepted that the Notices to Leave were valid and the Respondent had been given sufficient notice.

The Tribunal were satisfied that Ground 1 had been established.

The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal determined that it would be reasonable to grant the order sought in the circumstances.

The Tribunal weighed the competing interests of the Parties and determined that it was reasonable in the circumstances to grant the application for eviction and recovery of possession.

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.

Alan Strain

13 May 2025

Legal Member/Chair

Date