

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 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/EV/24/2905

Re: Property at 7 Campsie Avenue, Irvine, KA11 1JF (“the Property”)

Parties:

Mr Shehzad Ahmad, 191 Tunbury Avenue, Chatham, Kent, ME5 9HY (“the Applicant”)

Miss Ashley Kane, 7 Campsie Avenue, Irvine, KA11 1JF (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Frances Wood (Ordinary Member)

Decision

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

Background

1. By application received on 26 June 2024, the Applicant applied to the Tribunal for an order for recovery of possession of the property in terms of Section 51 of the 2016 Act against the Respondent. The application sought recovery in terms of Ground 1 of Schedule 3 to the 2016 Act (landlord intends to sell). Supporting documentation was submitted in respect of the application between the date of the application and 14 October 2024, including a copy of the Notice to Leave/proof of service of same, the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003/proof of service of same and evidence in support of the ground, being an email from the Applicant to his representative dated 4 September 2024 confirming his intention to sell once the

tenant vacates at which point he will instruct an Estate Agent and Surveyor to prepare a Home Report.

2. Following the initial procedure, on 19 November 2024, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. Notification of the application and details of the Case Management Discussion ("CMD") fixed for 23 April 2025 was served on the Respondent by way of Sheriff Officer on 11 March 2025. In terms of said notification, the Respondent was given until 28 March 2025 to lodge written representations. No written representations were lodged by or on behalf of the Respondent prior to the CMD, although on 21 March 2025 CHAP emailed, attaching a mandate from the Respondent, and confirming they would be representing her at the CMD.

Case Management Discussion

4. A Case Management Discussion ("CMD") took place by telephone conference call on 23 April 2025 at 2pm, attended by Mr Allan Lavelle of Ayr Estate Agents on behalf of the Applicant and by Miss Louise Mathieson of CHAP on behalf of the Respondent.
5. Following introductions and introductory remarks by the Legal Member, there was discussion regarding the eviction application. Miss Mathieson was asked to confirm the Respondent's position. She stated that the Respondent was not opposing the eviction but would request a two-month delay in execution of the eviction to allow the Respondent to be re-housed by the local authority. It was noted that the Respondent has four children residing with her, aged 12, 8, 5 and 2. She got in touch with the local authority when she first received the Notice to Leave but there is a high demand for social housing at the moment. It will take a little longer in the Respondent's case as the local authority has advised that it would be preferable for the Respondent to obtain a four-bedroom property, given the ages of the children, and there are not as many of them available. The Respondent would also be happy with a three-bedroom property however. CHAP are assisting the Respondent in relation to her housing application and Miss Mathieson was confident that a two-month extension from now would be sufficient.
6. Mr Lavelle confirmed that the Applicant would have no difficulty with the extension sought. He confirmed that the Applicant is resident in England and that this is the only property that he rents out. The reason he wants to sell as soon as possible is that his mortgage payments have doubled in respect of the Property, which means that he is now renting it out at a loss every month. There are also some rent arrears owing, as the Respondent is supposed to pay a top-up every month to cover the difference between her rent and the Universal Credit payment, but does not do so.
7. The Tribunal Members conferred on the application and confirmed that the eviction order would be granted, with the extended date of 23 June 2025 being

stated as the earliest date for enforcement of the order. Miss Mathieson was asked if she would liaise with Mr Lavelle in the event that the Respondent secures alternative housing meantime and is in a position to vacate earlier than 23 June 2025. She confirmed that she would do so. Parties were thanked for their attendance.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy (PRT) which commenced on 8 May 2018.
3. The Applicant intends to sell the Property and to market it for sale as soon as possible and within 3 months of obtaining vacant possession.
4. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent by post on 6 December 2023 in accordance with the terms of the tenancy agreement, which allowed service by post or email.
5. The date specified in the Notice to Leave as the earliest date the eviction Application could be lodged with the Tribunal was specified as 1 March 2024.
6. The Tribunal Application was submitted on 26 June 2024.
7. The Respondent remains in occupation of the Property.
8. The Respondent did not lodge any written representations prior to the CMD but was represented at the CMD.
9. The application was not opposed by the Respondent.
10. The Respondent has applied for social housing and requested a delay in the execution of the eviction for two months to allow additional time for a suitable property to be identified for her and her family.
11. The Applicant consented to such an extension in respect of the eviction date.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, and the oral information provided at the CMD by the Applicant and Respondent's representatives.
2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the requisite period of notice (84 days) had been served

on the Respondent and that the application was made timeously to the Tribunal, all in terms of the tenancy agreement and the relevant provisions of the 2016 Act.

3. The Tribunal considered that the ground of eviction, that the landlord intends to sell (Ground 1 of Schedule 3 to the 2016 Act, as amended) was satisfied in that all elements of Ground 1 were met and that it was reasonable, having regard to all of the circumstances, to grant the eviction order sought. The Tribunal had noted that there was supporting documentation with the application from the Applicant, namely an email to his representative confirming his intention to sell when the Respondent vacates. The Applicant's representative provided further background information at the CMD regarding the reason for the Applicant wishing to sell the Property as soon as possible, which was essentially for financial reasons. His mortgage payments have doubled in recent times and the Property is now being rented out at a loss every month. This is exacerbated as the Respondent does not pay the monthly shortfall between the Universal Credit payment received and the rent. In all the circumstances, and particularly on the basis that the Respondent was not contesting the application and had already made application for social housing to the local authority, which her representative was assisting her with, the Tribunal considered it reasonable to grant the eviction order sought. The Tribunal considered that the request on behalf of the Respondent for an extension in respect of the eviction date of two months was reasonable in the circumstances, particularly as she has four children and the local authority are seeking to identify a suitable four-bedroom property for the family. Such an extension was not opposed on behalf of the Applicant.
4. The Tribunal determined that an order for recovery of possession of the Property under ground 1 could properly be granted at the CMD, there being no facts in dispute. The Tribunal determined it appropriate to exercise their discretion in respect of an extension of the eviction date by the period of 2 months sought by the Respondent. The earliest date for eviction in terms of the eviction order issued will accordingly be stated as 23 June 2025.

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

23 April 2025
Date