

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

Chamber Ref: FTS/HPC/EV/24/4779

Re: Property at 31 Marmion Road, Greenfaulds, Cumbernauld, Glasgow, G67 4AN (“the Property”)

Parties:

Mrs Cely George, 13/81 McWhae Circuit, Wanniasa, Act 2903, Canberra, Australia (“the Applicant”)

Mr Stephen Rae, Mrs Kelly Rae, 31 Marmion Road, Greenfaulds, Cumbernauld, Glasgow, G67 4AN (“the Respondents”)

Tribunal Members:

Richard Mill (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted against the respondents

Introduction

1. The application seeks an eviction order and is under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. Service of the application and intimation of the Case Management Discussion (CMD) was effected by Sheriff Officers on the respondents on 25 February 2025.
3. The CMD took place by teleconference on 11 April 2025 at 2.00 pm. The applicant was represented by Miss Simone Callaghan of Messrs TC Young Solicitors. The applicant joined the hearing but did not actively participate. The respondents joined the hearing personally and represented their own interests.

Findings and Reasons

4. The property is 31 Marmion Road, Greenfaulds, Cumbernauld G67 4AN. The applicant is Mrs Cely George who is the heritable proprietor and registered landlord. The respondents are Ms Kelly Rae and Mr Stephen Rae who are the tenants.
5. A private residential tenancy was entered into between the parties which commenced on 21 February 2022. The rent stipulated was £725 per month. The written agreement purported to be a short assured tenancy which was not legally capable of being entered into as such tenancies have not been capable of being created since 1 December 2017.
6. The applicant relies upon ground 1 contained within part 1, schedule 3 to the 2016 Act. This specifies that it is an eviction ground where the landlord intends to sell the let property. The relevant notice period under ground 1 at the time that the notice was served was one of 84 days.
7. The notice to leave relied upon in this case is dated 19 June 2024 and stipulates that the earliest an application be submitted to the tribunal would be 14 September 2024. Post Office track and trace data evidences that the Notice to Leave was served upon the respondents on 20 June 2024. Sufficient statutory notice has been given.
8. The tribunal was satisfied on the basis of the credible and reliable evidence produced that it is the applicant's genuine intention to sell the let property. She wishes to retire and she has health issues. She still has a mortgage, has required to attend to multiple repairs and the non-payment of rent means that maintaining the property for the respondents is causing financial hardship.
9. The tribunal proceeded to consider the issue of reasonableness on the making of an eviction order. The tribunal weighed up the respective circumstances and needs of the parties.
10. The respondents stated clearly that they were not opposed to the application.
11. A relevant Section 11 notice has been issued to the relevant local authority which has duties to those who are homeless. The tribunal was satisfied that the respondents will be provided with alternate accommodation in the event of an eviction order being made against them.
12. Weighing up the respective circumstances of the parties, the tribunal concluded that it was reasonable to grant the eviction order.

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.

Richard Mill

11 April 2025

Legal Member/Chair

Date