

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 and Schedule 3 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 (Rules of Procedure) Regulations 2017 (the 2017 Rules)

Ref: FTS/HPC/EV/24/5051

Re: Property at 25/3 West Pilton Gardens, Edinburgh, EH4 4EF (the Property)

Parties:

Mr Stuart Wilson, 7 Brownsmuir Park, Lauder, TD2 6QD and Mr James Bell, 1 Waverley Gardens, Darnick, Melrose, TD6 9AF (the Applicants)

Mr Przemyslaw Gorecka, Ms Aneta Gorecka, Mr Patryk Rutkowski, Ms Ewelina Bak, 25/3 West Pilton Gardens, Edinburgh, EH4 4EF (the Respondents)

Tribunal Members:

Ms Susanne L. M. Tanner K.C. (Legal Member)
Mr Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal):

(1) was satisfied that Ground 1 in Schedule 3, Part 1 to the 2016 Act was established by the Applicants, in that on the day the tribunal considered the application for an eviction on its merits: the Applicants as registered proprietors intend to sell the let Property for market value, or at least put it up for sale within three months of the Respondents ceasing to occupy it; and that it was reasonable to make an eviction order in the circumstances; and made an order for eviction in terms of Section 51 of the 2016 Act.

(2) The decision of the tribunal was unanimous

Statement of Reasons

Procedural Background

1. The Applicants' Representative made an application to the tribunal on 1 November 2024 in terms of 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 (Rules of Procedure) Regulations 2017 (the 2017 Rules). The Applicants seek the Respondents' eviction from the Property under Ground 1 of Schedule 3.
2. The Applicants' Representative provided the following documents with the Application:
 - 2.1. Paper apart;
 - 2.2. Private Residential Tenancy agreement;
 - 2.3. Copy Notice to Leave and proof of delivery;
 - 2.4. Copy section 11 Notice to the Local Authority with proof of delivery by email; and
 - 2.5. Letter of engagement and property sales agreement from StandardSale Estate Agents.
3. On 5 November 2024, the tribunal's administration obtained a copy of the Title deeds for the Property which shows that the Applicants have been the registered proprietors since 1 May 2012.
4. The tribunal's administration obtained a copy of the registered landlord details for the Property which shows that the Applicants are registered landlords.
5. The Application was accepted for determination. On 19 March 2025 the tribunal sent letters of notification to all parties with the date, time and arrangements for joining the Case Management Discussion ("CMD") teleconference in relation to the Application on 6 May 2025 at 1000h. The Application paperwork was personally served on the Respondents by Sheriff Officers on 24 March 2025. The Respondents were told that if they wished to submit written representations these should be sent to the tribunal by 9 April 2025.
6. The Respondents did not submit any written representations to the tribunal or make any contact with the tribunal.

CMD: 6 May 2025, 1000h, Teleconference

7. Mr Rodger from the Applicant's Representative attended, with Ms Keddie as an observer
8. None of the Respondents attended or made any contact with the tribunal. The tribunal was satisfied that the Respondents were served with Application and notification of the CMD on 24 March 2025 by Sheriff Officers and that the requirements of rule 24(1) of the 2017 Rules regarding the giving of notice of a hearing had been duly complied with. The tribunal proceeded with the Application upon the representations of the party's representative present and all the material before it.
9. Mr Rodger confirmed that he is instructed to seek the Respondents' eviction from the Property. The Applicants intend to sell the let property to raise funds. He referred to the letter of engagement for StandardSale Estate Agents dated 15 April 2024 and the subsequent sales agreement. Arrangements have been made to sell the property if an eviction order is granted. The Applicants have only considered selling with vacant possession.
10. The tribunal asked Mr Rodger what information he has about the Respondents. He said that he does not have a lot of information about them. He said that there are no children that he is aware of. The Respondents have not communicated with the Applicants or Mr Rodger's firm since the Notice to Leave was served on 22 June 2024. He believes that rent is being withheld at the moment, without any intimation to the Applicants as to the reason for that. No further information was provided by Mr Rodger about the length of time over which rent arrears have accrued or the amount of arrears. Mr Rodger said that the Property is self-managed by the Applicants at the moment. He does not know when the Applicants were last in the Property. He said that the sales agents would have been in the Property shortly before the sales agreement was issued to the Applicants on 15 April 2024. He believes that the Applicants have carried out required safety inspections. He said that the normal method of contact between the Applicants and Respondents about the tenancy of the Property is by email. Mr Rodger is unaware when the last contact took place.
11. Mr Rodger said that he understands that the Applicants have more than one rented property together. He is not aware of the extent of their portfolio. He is not aware that they are selling any other properties.
12. Mr Rodger is not aware of any health issues that the Respondents have. He is unaware whether they have made contact with the local authority. He said that the Section 11 notice was intimated to the local authority on 16 October 2024.

13. The tribunal makes the following findings-in-fact:

- 13.1. The Applicants are the registered proprietors of the Property.
- 13.2. The Applicants wish to sell the Property and realise the proceeds.
- 13.3. There is a private residential tenancy agreement between the Applicants and the Respondents for the Property which started on 15 April 2021.
- 13.4. There are no children under 16 residing in the Property.
- 13.5. On 22 June 2024, a Notice to Leave containing ground 1 of Schedule 3 to the 2016 Act was served on the Respondent.
- 13.6. The Applicants have given the Respondents at least 84 days' notice that they require possession.
- 13.7. The Application to the tribunal was made on 1 November 2024.
- 13.8. The Applicants have engaged a sales agent in respect of sale of the Property with vacant possession.
- 13.9. The registered proprietors intend to sell the Property on the open market or at least market it for sale within three months of vacant possession.
- 13.10. The Respondents have not stated any defence to the Application.

14. Findings in fact and law

- 14.1. The tribunal is satisfied that the facts required in paragraph 1 of Schedule 3 to the 2016 Act have been established.
- 14.2. The tribunal is satisfied that it is reasonable to make an order for eviction.

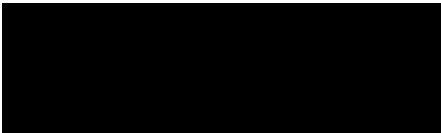
Discussion

- 15. The order for eviction is sought in terms of Section 51 and paragraph 1 of Schedule 3 to the 2016 Act. The tribunal was satisfied that the requirements of those provisions have been met. The tribunal is satisfied that the Applicants intend to sell the Property or at least put it up for sale within three months of an eviction order.

16. In relation to reasonableness, reference is made to the tribunal's findings in fact. The Respondents have not opposed the Application or made any submissions about reasonableness of eviction. The tribunal was satisfied that it was reasonable to evict the Respondents in the circumstances of the case.

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: 6 May 2025