



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/24/4316

Re: Property at 1D, Upper Right George's Avenue, Ayr, KA8 9HW ("the Property")

Parties:

Mr Sadi Zeki, 23 Chester Road, Chigwell, IG7 6AH ("the Applicant") and

Mr Shaun Watson, 1D, Upper Right George's Avenue, Ayr, KA8 9HW ("the Respondent")

Tribunal Members:

George Clark (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that it could decide the application without a Hearing and that it was reasonable to issue an Eviction Order against the Respondent.

Background

1. By application dated 10 September 2024, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act"). The Ground relied on was Ground 1 of Schedule 3 to the 2016 Act, namely that the landlord intends to sell the Property.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, which commenced on 2 October 2020 at a rent of £375 per month, a Notice to Leave dated 5 June 2024 advising the Respondent that an application to the Tribunal under Ground 1 would not be made before 8 September 2024 and a Sales Agreement dated 21 October and 22 November 2024, instructing Homesure Portfolio Management to sell the Property.
3. On 8 March 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make

written representations by 29 March 2025. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the morning of 8 May 2025. The Applicant was represented by Mrs Elaine Dunlop of Homesure Portfolio Management, Ayr. The Respondent was not present or represented.
5. Mrs Dunlop told the Tribunal that the Applicant lives overseas and has decided to exit the residential rental market. He has sold two of his five properties. She had been trying to contact the Respondent by telephone and e-mail, as the Respondent now has rent arrears of four months. She has been unable to ascertain whether he is still living in the Property. He told her some months ago that he had been sacked from his employment but had won a case against his employers and was looking for another job. He is aged 35 and lives alone. Mrs Dunlop was unaware of his having any disabilities, but he had told her in relation to his case against his former employer that he had been having some issues. When Mrs Dunlop last spoke to him, about five months ago, she had asked him to contact her if she could be of help in finding him another flat. As the Applicant was looking to sell, had the Respondent asked her to help, he would have been given first chance to view any suitable property that the agents were asked by other clients to put on the rental market.

Reasons for Decision

6. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
7. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies.
8. Ground 1 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the landlord intends to sell the let property and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell and 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 the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts. Ground 1 goes on to state that evidence tending to show that the landlord has that intention includes (for example) a letter of engagement from a solicitor or estate agent concerning the sale, or a recently prepared Home Report.
9. The Tribunal was satisfied from the evidence provided by the Applicant and the Sales Agreement, that the Applicant intends to sell the Property. Accordingly,

the only matter for the Tribunal to decide was whether it would be reasonable to issue an Eviction Order.

10. The Tribunal noted that the Applicant is looking to exit the residential rental market and that he has already sold two properties from his portfolio. It appeared that the Applicant's agents had attempted to engage with the Respondent with a view to helping him find alternative accommodation, but he had not taken up that offer. He has not responded to the Applicant's agents' emails or telephone calls and did not make any written representations to the Tribunal or appear or arrange to be represented at the Case Management Discussion. As a result, he had not taken the opportunity to provide the Tribunal with any information regarding his personal or other circumstances that he would wish the Tribunal to take into account when considering whether to issue an Eviction Order. Accordingly, having considered carefully all the evidence before it, the Tribunal decided that it would be reasonable to issue an 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.

George Clark

Legal Member/Chair

Date: 8 May 2025