



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/24/4071

Re: Property at 19 Morar Street, Methil, Leven, KY8 3JA (“the Property”)

Parties:

Rollos Trustee Services Limited as executors for the late Mr John and Mrs May Copley, 67 Crossgate, Cupar, Fife, KY15 5AS (“the Applicant”)

Mr Jason Powell, Mrs Tammy Powell, 19 Morar Street, Methil, Leven, KY8 3JA (“the Respondents”)

Tribunal Members:

Richard Mill (Legal Member) and Gerard Darroch (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

This is an application under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 which seeks an eviction order. Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the respondents by Sheriff Officers on 5 March 2025.

The CMD took place by teleconference on 13 May 2025 at 2.00 pm. The applicant was represented by Mr Adam Gardiner of Lindsays LLP. The respondents joined the hearing and represented their own interests.

Findings and Reasons

The property is 19 Morar Street, Methil, Leven KY8 3JA. The applicant is Rollo Trustee Services Limited who is the sole executor of both the late Mr John Cropley and Mrs May Cropley, who died on 14 July 2021 and 15 July 2021 respectively. The said Mr and Mrs Cropley were the heritable proprietors of the property. The applicant was appointed as Executor in respect of both Mr and Mrs Cropley's estates. The applicant is accordingly the uninfert proprietor of the property.

On or around 9 February 2021 Mr and Mrs Cropley, acting through their letting agent, Fife Properties, entered into a private residential tenancy agreement with the respondents Mr Jason Powell and Mrs Tammy Powell who are the tenants.

The applicant (the executor of Mr and Mrs Cropley) has no interest in the preservation of the property to act as landlord. In order to wind up the estates of the late Mr and Mrs Cropley the property requires to be sold, funds ingathered and the net free proceeds of sale will form part of their estates to be distributed in accordance with their wills. Mr David Harley, Solicitor, who is a Director of the applicant, has produced an affidavit dated 23 April 2025 confirming the circumstances. There is an outstanding mortgage of over £75,000. The current rent less the letting agent commission does not meet the monthly mortgage commitments so there is a shortfall each month being paid by the executries. This is adverse to the interests of the beneficiaries and cannot continue. Further, the mortgage company is threatening to repossess the property unless it is sold in the short term.

The relevant notice period under ground 1 at the time that the notice to leave was served was one of 84 days. The notice is dated 30 May 2024 and stipulates that the earliest an application be submitted to the tribunal would be 24 August 2024. There is evidence that the notice was served by recorded delivery upon the respondents and were delivered on 30 May 2024. Sufficient statutory notice was given.

The tribunal was satisfied on the basis of the unchallenged credible and reliable documentary evidence produced that it is the applicant's genuine intention to sell the let property.

The tribunal proceeded to consider the issue of reasonableness on the making of an eviction order.

The respondents are not opposed the application in principle; rather they are concerned about the consequences. They are fully aware of the circumstances which give rise to the application. Mrs Powell has physical health difficulties and they seek a ground floor property. The respondents live with their adult daughter and their young grandson. They have registered with the Council for alternative accommodation. It is likely to be 3 months before the offer of an permanent tenancy can be offered.

A relevant section 11 notice has been issued to the relevant local authority. The tribunal was satisfied that the respondents will be provided with alternate

accommodation in the event of an eviction, even on temporary basis, if an eviction order is granted.

It is unlikely that the mortgage lender will seek to repossess if an eviction order has been made and a definite timeframe exists by which the property can be marketed for sale.

Weighing up the respective circumstances of the parties, the tribunal concluded that it was reasonable to grant the eviction order. The tribunal also found it reasonable and proportionate to defer implementation, beyond the standard 30 day period, for a period of three full months to assist the respondents.

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

13 May 2025

Legal Member/Chair

Date