



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 54(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/4424

Re: Property at 49 BAPTIE PLACE, BO'NESS, EH51 0NN ("the Property")

Parties:

Mr Craig Mccorriston, 14 Sheriffs Park, Linlithgow, EH49 7SS ("the Applicant")

Ms Candice Hart, 49 Baptie Place, Bo'ness, EH51 0NN ("the Respondent")

Tribunal Members:

Graham Harding (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Applicant was entitled to an order for the eviction of the Respondent from the property.

Background

1. By application dated 19 September 2024 the Applicant's representatives, Jackson Boyd LLP, Solicitors, Glasgow, applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act"). The Applicant's representatives submitted a copy of a tenancy agreement, Notice to Leave with execution of service, Section 11 Notice, copy correspondence to the Respondent and a sales agreement together with other documents in support of the application.
2. By Notice of Acceptance dated 22 October 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion ("CMD") was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 25 February 2025.
4. By email dated 8 April 2025 the Applicant's representatives submitted further written representations to the Tribunal including an Affidavit from the Applicant dated 3 April 2025.

The Case Management Discussion

5. A CMD was held by teleconference on 22 April 2025. The Applicant attended in person and was represented by Mr Tony McTigue from the Applicant's representatives. The Respondent did not attend nor was she represented. The Tribunal being satisfied that proper intimation of the CMD had been given to the Respondent determined to proceed in her absence.
6. The Tribunal noted from the documents submitted with the application that the parties commenced a Private Residential tenancy of the property on 24 July 2019 at a rent of £600.00 per calendar month that subsequently increased to £618.00 per month.
7. The Tribunal also noted that the Respondent had been served with a Notice to Leave under Grounds 1 and 11 of Schedule 3 of the 2016 Act on 19 April 2024 but that the Applicant only wished to proceed with the application under Ground 1. The Tribunal noted that a Section 11 Notice had been sent to Falkirk Council by email on 19 September 2024 and an acknowledgement dated 25 September 2024 was received from Falkirk Council on 1 October 2024. The Tribunal noted from the documents submitted that the Applicant had entered into a sales agreement with Halliday Homes, Bridge of Allan, to market the property for sale once vacant possession had been obtained. The Tribunal also noted that the Applicant had written to the Respondent in February 2024 advising the Respondent of his intention to sell the property.
8. The Tribunal noted that rent was currently being paid for the property in the sum of £600.00 per month by direct payment from the Respondent's Universal Credit entitlement and the Applicant had been advised that the DWP would also be making direct payments towards the arrears. The Tribunal noted that as eviction was not sought on a rent arrears ground, this was information which would be noted in terms of any decision on reasonableness.
9. The Tribunal was referred to the terms of the Applicant's affidavit of 3 April 2025. The Applicant explained the position with regards to the financial issues affecting the property and his concerns that in the future due to its construction it may not be mortgageable. The Applicant also confirmed his concerns as regards the viability of continuing to rent the property should there be legislative changes in

the future due to difficulties with improving its energy efficiency. The Applicant also expressed concern at being unable to gain access to the property to carry out gas and electric safety checks and failures on the part of the Respondent to adhere to the terms of the tenancy agreement all as detailed in his affidavit. The Applicant explained that all of these issues had caused him substantial stress as well as delaying his retirement.

10. In response to a query from the Tribunal the Applicant confirmed that the property was a mid-terrace property in a row of five and that one of the properties had sold in the past year.

11. In response to a further query from the Tribunal Mr McTigue said that he understood that the Respondent had previously had a partner living with her at the property but he thought that he had left and that the Respondent was living at the property and may have two children living with her but he could not be sure. He confirmed he was seeking an order for eviction.

Findings in Fact

12. The Respondent commenced a Private Residential Tenancy of the property on 24 July 2019.

13. A Notice to Leave under Grounds 1 and 11 of Schedule 3 of the 2016 Act was served on the Respondent on 19 April 2024.

14. A Section 11 Notice was sent to Falkirk Council on 19 September 2024.

15. The Respondent has not facilitated access to the property by the Applicant or the Applicant's contractors over a lengthy period resulting in the Applicant requiring to make an application for access to the Housing and Property Chamber.

16. The Applicant intends to sell the property and has instructed Halliday Homes, Bridge of Allan, to market the property once vacant possession has been obtained.

17. The property is of non-standard construction and it may be difficult to improve its energy efficiency.

18. The Applicant wishes to retire from his employment but is unable to do so whilst he remains landlord of the property.

19. It is no longer economically viable for the Applicant to rent out the property.

20. The difficulty in obtaining access to the property and being unable to meet gas and electrical safety checks has caused the Applicant stress.

Reasons for Decision

21. The Tribunal was satisfied from the documents submitted and the oral submissions of the Applicant and the Applicant's representative that the parties entered into a Private Residential tenancy that commenced on 24 July 2019. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Grounds 1 and 11 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to Falkirk Council by way of a Section 11 Notice. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that despite being given an opportunity to submit written representations and to attend the CMD the Respondent chose to do neither. The Tribunal was also satisfied from the documents produced and the Applicant and the Applicant's representative's oral submissions that the Respondent has failed to engage with the Applicant in order to facilitate access to the property for gas and electrical safety checks. The Tribunal considered that the Applicant's affidavit of 3 April 2025 clearly set out the concerns the Applicant had with the property and the financial impact continuing to rent out the property had on his ability to retire from his employment. The Tribunal was satisfied that the Applicant intended to market the property for sale once he obtained vacant possession and that notwithstanding that rent was being paid for the property the issues affecting the property and the issues with the Respondent were having an adverse effect upon the Applicant. In the absence of any meaningful opposition from the Respondent the Tribunal was satisfied that it was reasonable to grant an order for eviction.

Decision

22. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for the eviction of the Respondent from the property.

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.

**Graham Harding
Legal Member/Chair**

**22 April 2025
Date**