

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/24/4850

Re: Property at 83 Rowan Drive, Blackburn, EH47 7PA (“the Property”)

Parties:

**Mr Christopher Marshall, Calle Doctor Alfonso Chiscano Diaz , no 8, Portal G ,
Bajo B, Las Palmas De Gran Canaria, Las Palmas, 35019, Spain (“the Applicant”)**

**Mr James Downard, Miss Bronwen Whalen, 83 Rowan Drive, Blackburn, EH47
7PA (“the Respondent”)**

Tribunal Members:

Alison Kelly (Legal Member) and Ann Moore (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the order for eviction should be granted.**

Background

1. On 21st October 2024 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - i. Copy Private Residential Tenancy Agreement showing a commencement date of 24th February 2023 and a rent of £1100 per month;
 - ii. Copy Notice to Leave dated 25th July 2024;

- iii. Copy email dated 25th July 2024 to the Respondents serving the Notice to Leave;
 - iv. Section 11 Notice and proof of service;
 - v. Email from Brown & Co Properties dated 1st October 2024 confirming instructions to market the property.
3. The Application was served on the Respondents by Sheriff Officers on 4th March 2025.

Case Management Discussion

- 4. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Miss Fraser of Lothian Homes. The Respondents dialled in and represented themselves.
- 5. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
- 6. Miss Fraser sought an order for eviction in terms of ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
- 7. The Second Named Respondent spoke on behalf of both respondents and said that they did not oppose an order for eviction being granted.
- 8. Miss Fraser explained that the Applicant wished to sell the property, which was his only let property, as he and his family had relocated to Spain and needed to purchase a bigger house there to accommodate their growing family. She also explained that she had been trying to find alternative accommodation for the Respondents, who had co-operated throughout, but due to lack of available accommodation and a change in their circumstances they had now applied to the local authority for housing and required an eviction order before they could be allocated anything.
- 9. The Second Named Respondent confirmed that this was the case. She said that the Respondents had three children, aged 12, 8 and 18 months, and they now needed four bedroomed accommodation. She said that two years ago the First Named Respondent had suffered an injury at work which had led to an ongoing condition, and they had gone from both working to neither of them working, and they were reliant on benefits. She said that she had been told that an eviction order would mean they would be awarded a significant number of extra points on the housing list.

Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing on 24th February 2023 and with a rent of £1100 per month;
- b. A Notice To Leave, dated 25th July 2024, was served timeously and correctly;
- c. A section 11 notice was served on the local authority;
- d. The Application was served on the Respondent by Sheriff Officer on 4th March 2025;
- e. The Applicant is the owner and is entitled to sell the let property;
- f. The Applicant intends to sell the let property for market value, or at least put it up for sale, within 3 months of the Respondents ceasing to occupy it;
- g. The First Named Respondent has a disability;
- h. The Respondents have three young children;
- i. The Respondents have contacted the local authority and applied for housing;
- j. The Respondents are not opposed to the order being granted.

Reasons for Decision

10. Ground 1 of Schedule 3 of the Act states as follows:

1(1)It is an eviction ground that the landlord intends to sell the let property.

(2)The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—

(a)is entitled to sell the let property,

(b)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

(c)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3)Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a)a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b)a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

11. The Tribunal is satisfied from the application, and the oral submissions of Miss Fraser, that paragraph (2)(1)(a) and (b) have been met.
12. The Tribunal is also satisfied in terms of paragraph (2)(1)(c) that it is reasonable to grant the order. The Respondents are not opposed to it and have applied for local authority housing. They have been told that they require an eviction order from the Tribunal to allow them to be rehoused.
13. In the circumstances the Tribunal consider that it is also be reasonable, given that the Respondents have three young children, to suspend extract of the order for a period of two weeks after the normal extract date, meaning that the order cannot be implemented before 17th June 2025, to give the Respondents a chance to get a copy of the Decision to the local authority, and for it to work its way through their system.

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.

Alison Kelly

Legal Member/Chair

Date: 1st May 2025