



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/24/3114

Property at 57 Stewart Road, Falkirk, FK2 7AQ (“the Property”)

Parties:

Prestige Property Ventures Ltd, 28 Hayfield, Falkirk, FK2 7XH (“the Applicant”)

Stephen Dann, 57 Stewart Road, Falkirk, FK2 7AQ (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant.

Background

1. The Applicant seeks an eviction order in terms of Section 51 and ground 3 of schedule 3 of the 2016 Act. A Notice to leave, section 11 notice and documentation regarding the condition of the property were submitted with the application.
2. A copy of the application was served on the Respondent, and both parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 30 April 2025 at 10am.
3. The CMD took place on 30 April 2025. The Applicant was represented by Mr Shafaq and Mr Raziq. The Respondent did not participate and was not represented.

Case Management Discussion

4. Mr Shafaq told the Tribunal that he was notified by the Revenue and Benefits department of the Council that the Respondent had moved out of the property on 9 April 2025 and that his direct housing benefit payments were ending. The Applicant served an abandonment notice at the property on 11 April 2025. The door of the property was open, and they placed the notice inside. The Respondent was not there. The Notice provided contact details and asked the Respondent to get in touch. He has not done so. He has not notified the Applicant that he has moved out or returned keys. In the circumstances, the Applicant seeks an order for eviction.
5. Mr Shafaq referred the Tribunal to the photographs lodged with the application. These were taken when he visited the property shortly after purchasing it in March 2024. He said that the property is in a very poor and potentially dangerous condition. It requires electrical work as well as work to deal with water ingress and dampness. The ceiling in the kitchen is badly damaged and the living room, which appears to have been used for storage, has badly damaged walls. The kitchen and bathroom require to be replaced. Although the Applicant has approached a number of contractors, none have been willing to provide a quote because of the dangerous condition of the property. They are still looking.
6. In response to questions from the Tribunal, Mr Shafaq said that he has bumped into the Respondent from time to time in Falkirk. On the last occasion, about 6 weeks ago, Mr Dann said that the Local Authority were trying to find him a house. More recently, he told Mr Rafiq that he had been offered one in Slamannan. The Tribunal was told that the Respondent is elderly. Although in receipt of housing benefit, he indicated that he is in employment. He has no close family and lives at the property alone. Mr Shafaq confirmed that the Applicant has a portfolio of rental properties, and the plan is to re-let the property once the refurbishment work has been carried out.

Findings in Fact

7. The Applicant is the owner and landlord of the property.
8. The Respondent is the tenant of the property. He lived at the property alone.
9. The property requires extensive refurbishment.
10. The Applicant intends to carry out extensive refurbishment.
11. It would not be practicable for the Respondent to reside in the property while the work is being carried out.
12. The Applicant served a Notice to leave on the Respondent on 15 March 2024.

13. The Respondent has not relinquished the tenancy but appears to have ceased to occupy it.
14. Housing benefit payments to the rent account have ceased.

Reasons for Decision

15. The application was submitted with a Notice to Leave dated 15 March 2024. The Applicant's representative confirmed that it had been hand delivered to the Respondent on that date. The Notice states that an application to the Tribunal is to be made on ground 3, the landlord intends to refurbish the let property.
16. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice which was sent to the Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
17. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
18. Ground 3 of schedule 3 (as amended) states, "(1) It is an eviction ground that the landlord intends to carry out significantly disruptive works to, or in relation to, the let property. (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if (a) the landlord intends to refurbish the let property (or any premises of which the let property forms part), (b) the landlord is entitled to do so, (c) it would be impracticable for the tenant to continue to occupy the property given the nature of refurbishment intended by the landlord, and (d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts."
19. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Applicant, as owner, is entitled to refurbish the let property and that they intend to do so. The Tribunal notes that the photographs show that the property is currently uninhabitable, and that substantial refurbishment is required throughout. The work required will affect every room in the property and will address water ingress and dampness, damage to walls and flooring and replacement of bathroom and kitchen. Essential electrical work is also required. The Tribunal is therefore satisfied that it would not be practicable for the property to be occupied by a tenant while the work is being carried out.
20. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -

- (a) The planned work is essential. The condition of the property is currently very poor, and the Respondent is at risk of injury and damage to health because of the damaged floor and ceiling, electrical issues, dampness and water ingress. The property is also extremely dirty, also a health and safety issue.
- (b) The Respondent appears to have moved out of the property and may have been provided with alternative accommodation by the Local Authority, although it is not known if this is a temporary or permanent arrangement.
- (c) The Respondent did not participate in the CMD or notify the Tribunal if the application is opposed.
- (d) The housing benefit payments to the rent account have ceased and no rent is being received from the Respondent.

21. Having regard to the factors outlined in the preceding paragraph, the Tribunal is satisfied that it would be reasonable to grant the eviction order.

22. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act and that ground 3 has been established. For the reasons outlined, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

23. The Tribunal determines that an eviction order should be granted against 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.

Josephine Bonnar

Josephine Bonnar, Legal Member

30 April 2025