

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 Reference No: FTS/HPC/EV/24/3152

Property: Flat 46, 12 Commercial Court, Glasgow, G5 0PN (“the Property”)

Mr Fidele Zeufack Nguetsa, 11 Hartfield Gardens, Glasgow, Lanarkshire, G33 4QE (“the Applicant”) and

Clarity Simplicity Ltd, 34 Woodlands Road, Glasgow, G3 6UR (“the Applicant’s Representative”) and

Ms Mojinyinoluwa Oyadiran, Flat 46, 12 Commercial Court, Glasgow, G5 0PN (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

M Booth - Ordinary Member

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined as follows:

Case Management Discussion on 27th November 2024

1. The Applicant has applied under Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”) (Application for an eviction order).
2. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 2.00pm on 27th November 2024. The Applicant Mr Nguetsa, his

Representative's Ms E. Hamilton and the Respondent Ms Oyadiran and her then Representative's Ms M Smith, of Castlemilk Law Centre, attended. Reference is made to the Notes on that CMD.

Evidential Hearing on 9th May 2025

3. An evidential Hearing took place at the Glasgow Tribunals Centre on 9th May 2025. Mr Nguetsa and his Representative's Ms E. Hamilton attended. Ms Oyadiran did not attend and there was no explanation for her absence. Ms M. Smith had withdrawn from acting on behalf of Ms Oyadiran, by e-mail sent to the Tribunal's office on 30th April 2025. In her email Ms Smith stated that she had informed Ms Oyadiran of the details of the evidential Hearing.
4. At the CMD Ms Smith argued that the Sheriff Officers' execution of the Notice to Leave ("NTL") by way of letterbox service on Ms Oyadiran, was incompetent. The Tribunal invited written submissions from Ms Smith and Ms Hamilton on the point raised and ordered that an evidential Hearing be scheduled. After considering the written submissions, and relevant caselaw, the Tribunal decided that the Sheriff Officers' service was competent and confirmed this to Mr Nguetsa and Ms Hamilton.
5. Ms Hamilton referred to the Application papers and stated that it remains Mr Nguetsa's intention to return to reside in the Property. Mr Nguetsa reiterated his intention.

Decision and Statement of Reasons

6. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
7. Schedule 3 (4) of the 2016 Act provides that it is an eviction ground that a landlord intends to live in the let Property and confirms the criteria for the grant of an eviction order on this ground.
8. The Tribunal considered the Application papers, including the PRT, NTL and the terms of Mr Nguetsa's Affidavit. The Tribunal also considered the submission made by Ms Hamilton. Having done so, the Tribunal found in fact that Mr Nguetsa seeks recovery of the Property in order to live in it and have his children visit, and stay with him, there. The Tribunal found in law that ground 4 in Schedule 3 to the 2016 Act is satisfied. The Tribunal, in making their findings in fact and law, placed reliance on Mr Nguetsa's Affidavit and oral evidence as well as the absence of any contradictory representations from Ms Oyadiran. Ms Oyadiran was aware of the important nature

of these proceedings and Ms Smith had given her details of the evidential Hearing. Ms Oyadiran did not submit any representations to the Tribunal in advance of the Hearing and did attend at the Hearing to contradict the terms of the Application and, in particular, did not provide any information to the Tribunal regarding the issue of whether or not it is reasonable to grant the order sought. The Tribunal therefore decided that it is reasonable to grant the eviction order.

Outcome

9. The Tribunal therefore makes an eviction order as sought in this Application.

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.

Legal Member: G McWilliams

Date: 9th May 2025