



**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 (“the Act”)**

**Chamber Ref: FTS/HPC/EV/24/4719**

**Re: Property at 65 Main Street, Elgin, IV30 6BH (“the Property”)**

**Parties:**

**Mr Michael Smillie, Mr David Smillie, 1 Roseisle Maltings Bungalow, Roseisle, Moray, IV30 5YD; Braehead Cottage, Aberlour, AB38 9LT (“the Applicants”)**

**Mr Adam Betteridge, Miss Rossana Elisiario, 65 Main Street, Elgin, IV30 6BH (“the Respondents”)**

**Tribunal Members:**

**Steven Quither (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) UNANIMOUSLY determined to grant the order for eviction sought by the Applicants.**

**BACKGROUND**

1. This is an application lodged on 11 October 2024 to bring to an end a Private Residential Tenancy (“PRT”) between the parties in respect of the Property commencing 1 February 2023, based on Ground 1 of Schedule 3 of the Act (Landlord intends to sell the Property).
2. The Tribunal accepted the application by Notice of Acceptance of 8 November 2024 and a Case Management Discussion (“CMD”) was duly fixed for 22 April 2025.

3. Prior to the CMD, preliminary consideration of the supporting documentation for this application confirmed that:--
- a) Notices to Leave dated 15 July 2024 were served by email on both Respondents on the same date and in addition by Royal Mail Special Delivery Guaranteed post on 16 July 2024;
  - b) The appropriate local authority was notified of the application in terms of s11 of the Homelessness etc. (Scotland) Act 2003 on 11 October 2024;
  - c) The Applicants had taken at the very least preliminary steps regarding placing the Property up for sale on or about 11 October 2024 by instructing Cluny Estate Agents, Forres to act as agents in its sale;
  - d) Personal service of this application was made on both Respondents by sheriff officers on 25 February 2025; and
  - e) By email of 4 April 2025, the Applicants provided further information to the Tribunal regarding the circumstances in which the application was made.
4. At all times the Tribunal was aware that in relation to this eviction case, it required to be satisfied not only that the formal requirements regarding same had been complied with but also that it was reasonable to make the order for repossession.

#### **CASE MANAGEMENT DISCUSSION on 22 APRIL 2025**

5. The CMD took place by teleconference and duly commenced shortly after 2pm. The First Applicant was present along with his wife, Judie Smillie and Charles Beck from Cluny Estate Agents. Both Respondents attended also.
6. By submission to the Tribunal and in response to questions then asked by the Tribunal, Mr and Mrs Smillie and Mr Beck advised and confirmed very concisely:--
- a) The Applicants were seeking to sell the Property to fund care home expenses for the Applicants' mother, who had been in a care home since June 2022, which had now exhausted all funds previously available for her care;

- b) They had hoped that by serving Notice to Leave in October 2024, matters would have progressed sufficiently to save having to proceed with the application but that had not proved to be possible; and
  - c) If the application was granted, the sale would proceed just as soon as reasonably practicable, the Property was now being advertised for sale.
7. By submission to the Tribunal and in response to questions then asked by the Tribunal, the Respondents advised and confirmed:--
- a) They were aware of the Applicants' position and were looking to leave the Property as soon as they could;
  - b) When they had received the Notice to Leave, they had contacted the relevant local authority to seek alternative housing but had not been able to make any substantial progress regarding same and they were not able to afford private accommodation;
  - c) They hoped the position might change if they could provide proof of being made homeless by being evicted from the Property;
  - d) They were being afforded such assistance as he could by Mr Beck;
  - e) They hoped their 4 and 13 year old children's schooling would be taken into account by the local authority in deciding on any alternative accommodation; and
  - f) They did not have any particular opposition to the order now being granted and the 30 day appeal period should enable them to finalise alternative accommodation.
8. The parties were then content for the Tribunal to consider the application based on the information contained in the casefile and as advised at the CMD.

### **FINDINGS IN FACT**

9. The parties entered into a PRT for the Property commencing 1 February 2023.
10. The Applicants now intend to sell the Property, or at least put it up for sale, within 3 months of the Respondents ceasing to occupy it.

## **REASONS FOR DECISION**

11. Based on the information available to it from the casefile and as advised at the CMD, the Tribunal was satisfied of the Applicants' intention to sell the Property, or at least put it up for sale within 3 months of the Respondents ceasing to occupy it.
12. Accordingly and in the absence of any particular opposition to the order being granted, the Tribunal was content it was just and reasonable to make the order sought and hopes that the grant of same might assist the Respondents in their efforts to obtain alternative accommodation.

## **DECISION**

13. To grant the order for eviction sought by the Applicants.

### **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.**

SR QUITHER

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**Legal Member/Chair**

**22 APRIL 2025**

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**Date**