



**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/24/2482**

**Re: Property at Flat 2/2, 9 West Street, Paisley, PA1 2UJ (“the Property”)**

**Parties:**

**Mrs Kuldip Rai, Mr Amarjit Rai, 49 Victoria Road, Paisley, PA2 9PT (“the Applicant”)**

**Ms Margaret Anne McDowall, Flat 2/2, 9 West Street, Paisley, PA1 2UJ (“the Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member) and Gordon Laurie (Ordinary Member)**

**Decision (in absence of the Respondent)**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) had been met and it would be reasonable to make an eviction order on account of the facts of this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

**Background**

- 1 By application to the Tribunal dated 30 May 2024 the Applicants sought an eviction order against the Respondent under Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and ground 1 of Schedule 3 of the Private Housing Tenancies (Scotland) Act 2016 (“the 2016 Act”).
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 14 October 2024. The Tribunal gave notification of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notification was served upon the Respondent by sheriff officers on 10 September 2024.

- 3 Both parties were invited to make written representations. No written representations were received in advance of the CMD.

### **The CMDs**

- 4 The first CMD took place on 14 October 2024 by teleconference. Ms Daryl Harper of Castle Residential represented the Applicants who did not join the call. The Respondent was not present. The Tribunal delayed the start time of the CMD for a short time before determining to proceed in her absence.
- 5 The Tribunal heard submissions from Ms Harper regarding the application. Ms Harper confirmed that the Applicants were seeking to downsize their lettings portfolio and wished to sell the property. The Applicants no longer wished to be landlords and wanted to leave the private rented sector.
- 6 In response to questions from the Tribunal Ms Harper confirmed that Castle Residential managed one other property for the Applicants. They had indicated that they wished to sell that property but had not yet instructed service of a notice to leave. The Tribunal asked if there was any indication from the Applicants as to why they had chosen to sell this property in particular. Ms Harper advised that she believed the Applicants wanted to see how the sale went for this property before proceeding to sell other properties.
- 7 The Tribunal pointed out the Applicants' email of 9th February 2024, which stated that they had a "need" to sell the property, and asked if the Applicants had provided any further detail on why this was the case. Ms Harper advised that the Applicants had simply said they did not want to be landlords anymore. The Applicants had purchased properties for their retirement, which was perhaps why they were looking to sell up. Ms Harper confirmed that Castle Residential offered estate agency services, as well as letting agency services. The Applicants had not yet signed the contract with them for the sale of the property. Ms Harper did not know if there was a mortgage over the property.
- 8 The Tribunal asked about the Respondent's personal circumstances. Ms Harper advised that she had no information in this regard, as the Applicants had managed the property themselves. She was aware that the property was a two bedroom property. She did not know if the Respondent had children.
- 9 Having heard from Ms Harper, the Tribunal determined that it did not have sufficient information to make a decision on whether it would be reasonable to make an eviction order. In particular, the Tribunal required further information regarding the Applicants' circumstances and reasons for selling this particular property, and information regarding the Respondent's personal circumstances. The Tribunal therefore determined to adjourn the CMD to a further CMD on 29th November 2024, to be held again by teleconference. A Direction was issued requiring the Applicants to provide further information in advance of the next CMD.

- 10 On 25 November 2024 the Tribunal received an email from Castle Residential requesting a postponement of the CMD. The Tribunal therefore agreed to reschedule the CMD for 14 May 2025. The Tribunal gave notification of rescheduled CMD to the parties in accordance with Rule 17(2) of the Rules on 24 March 2025.
- 11 On 23 April 2025 the Tribunal received written representations from Castle Residential on behalf of the Applicants. The written representations included an estimate from Central Property Contracts Ltd to Hacking and Paterson dated 11 June 2021, and a Sole Selling Rights Agreement between the Applicants and Castle Residential.
- 12 The second CMD took place on 14 May 2025 by teleconference. Ms Harper and Mrs Jacqueline McLelland from Castle Residential represented the Applicants, who did not join the call. Mrs McLelland confirmed that she would be addressing the Tribunal on behalf of the Applicants.
- 13 The Respondent did not join the call. The Tribunal delayed the start time of the CMD before determining to proceed in her absence.
- 14 The Tribunal had the following documents before it:-
  - (i) Form E application form;
  - (ii) Sasine title confirming the Applicants as the registered owners of the property;
  - (iii) Excerpt from the online landlord register confirming the Applicants' landlord registration;
  - (iv) Private residential tenancy agreement between the parties dated 18 June 2018;
  - (v) Notice to leave dated 12 February 2024, confirming that proceedings would not be raised any earlier than 25 May 2024 and proof of delivery by recorded mail on 15 February 2024;
  - (vi) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 to Renfrewshire Council and proof of delivery by email;
  - (vii) Copy email from the Applicant to Castle Residential dated 9 February 2024 instructing them to proceed with the sale of the property;
  - (viii) Copy letter from Castle Residential to the Applicant with a property valuation;
  - (ix) Mandate from the Applicant authorising Castle Residential to represent them in the Tribunal proceedings; and
  - (x) The Applicant's written representations dated 23 April 2025.
- 15 The Tribunal heard submissions from Mrs McLelland. She explained that the Applicants had a mortgage over the property of approximately £40,000. They wanted to sell off their rental portfolio in order to retire, and planned to do so in the next 12 to 18 months. Mrs McLelland advised that Castle Residential managed four properties for the Applicants. The Applicants had other rental properties that were managed by a different letting agent. Mrs McLelland believed the Applicants owned between 7 and 10 rental properties in total. The reason that they had

decided to sell this property first out of all the properties in their rental portfolio was due to concerns regarding the Respondent's conduct of the tenancy. The Applicants had received reports that the Respondent and her visitors had caused damage to the property and the communal areas. Whilst there was no direct evidence to confirm this, it was believed that the Respondent and her visitors were responsible for the issues. Mrs McLelland referred to the estimate from Central Property Contracts Ltd, which pertained to repairs to the communal areas. Mrs McLelland explained that there had been reports of loud arguments within the property, which spilled out into the communal area. The police had been called on one occasion, however no further action had been taken. The Applicants had been advised that complaints had been made to the local authority but the local authority had not notified the Applicants of this. The other residents in the building appeared to be fearful of the Respondent and her visitors.

- 16 Mrs McLelland confirmed that the Respondent was believed to be in her middle 30s or early 40s. There were no children residing with her. The Respondent was in receipt of benefits. Mrs McLelland advised that the Respondent had not disclosed any health conditions or vulnerabilities to the Applicants.
- 17 Having heard from Mrs McLelland, the Tribunal adjourned the CMD to deliberate, at which point parties left the call, before resuming the discussion and confirming the outcome.

## **Relevant Legislation**

- 18 The Tribunal considered the following provisions of the 2016 Act:-

### ***Private Housing (Tenancies) (Scotland) Act 2016***

#### ***1 - Meaning of private residential tenancy***

*1) A tenancy is a private residential tenancy where—*

*(a) the tenancy is one under which a property is let to an individual ("the tenant") as a separate dwelling,*

*(b) the tenant occupies the property (or any part of it) as the tenant's only or principal home, and*

*(c) the tenancy is not one which schedule 1 states cannot be a private residential tenancy.*

*(2) A tenancy which is a private residential tenancy does not cease to be one by reason only of the fact that subsection (1)(b) is no longer satisfied.*

#### ***51 First-tier Tribunal's power to issue an eviction order***

*(1) The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.*

*(2) The provisions of schedule 3 stating the circumstances in which the Tribunal may find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.*

- (3) *The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.*
- (4) *An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.*

## **52 Applications for eviction orders and consideration of them**

- (1) *In a case where two or more persons jointly are the landlord under a tenancy, an application for an eviction order may be made by any one of those persons.*
- (2) *The Tribunal is not to entertain an application for an eviction order if it is made in breach of—*
- (a) *subsection (3), or*
  - (b) *any of sections 54 to 56 (but see subsection (4)).*
- (3) *An application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant.*
- (4) *Despite subsection (2)(b), the Tribunal may entertain an application made in breach of section 54 if the Tribunal considers that it is reasonable to do so.*
- (5) *The Tribunal may not consider whether an eviction ground applies unless it is a ground which—*
- (a) *is stated in the notice to leave accompanying the landlord's application in accordance with subsection (3), or*
  - (b) *has been included with the Tribunal's permission in the landlord's application as a stated basis on which an eviction order is sought.*

## **54 Restriction on applying during the notice period**

- (1) *A landlord may not make an application to the First-tier Tribunal for an eviction order against a tenant using a copy of a notice to leave until the expiry of the relevant period in relation to that notice.*
- (2) *The relevant period in relation to a notice to leave—*
- (a) *begins on the day the tenant receives the notice to leave from the landlord, and*
  - (b) *in the case of a notice served before 3 October 2020 expires on the day falling—*
    - (i) *28 days after it begins if subsection (3) applies,*
    - (ii) *three months after it begins if subsection (3A) applies,*
    - (iii) *six months after it begins if neither subsection (3) nor (3A) applies.*
  - (c) *in the case of a notice served on or after 3 October 2020, expires on the day falling—*
    - (i) *28 days after it begins if subsection (3B) applies,*
    - (ii) *three months after it begins if subsection (3C) applies,*
    - (iii) *six months after it begins if neither subsection (3B) nor (3C) applies*

*(3) This subsection applies if the only eviction ground stated in the notice to leave is that the tenant is not occupying the let property as the tenant's home. [ground 10]*

*(3A) This subsection applies if—*

*(a) the only eviction ground, or grounds, stated in the notice to leave is, or are, one or more of the following—*

*(i) that the landlord intends to live in the let property, [ground 4]*

*(ii) that a member of the landlord's family intends to live in the let property, [ground 5]*

*(iii) that the tenant has a relevant conviction, [ground 13]*

*(iv) that the tenant has engaged in relevant anti-social behaviour, [ground 14]*

*(v) that the tenant associates in the let property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour, [ground 15]*

*(vi) that the landlord is not registered by the relevant local authority under the Antisocial Behaviour etc. (Scotland) Act 2004, [ground 16]*

*(vii) that the let property or associated living accommodation is in multiple occupation and not licensed under Part 5 of the Housing (Scotland) Act 2006, [ground 17] or*

*(b) the only eviction grounds stated in the notice to leave are—*

*(i) the eviction ground mentioned in subsection (3), and*

*(ii) an eviction ground, or grounds, mentioned in paragraph (a)*

*(3B) This subsection applies if the only eviction ground, or grounds, stated in the notice to leave is, or are, one or more of the following—*

*(a) that the tenant is not occupying the let property as the tenant's home, [ground 10]*

*(b) that the tenant has a relevant conviction, [ground 13]*

*(c) that the tenant has engaged in relevant anti-social behaviour, or [ground 14]*

*(d) that the tenant associates in the let property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour. [ground 15]*

*(3C) This subsection applies if—*

*(a) the only eviction ground, or grounds, stated in the notice to leave is, or are, one or more of the following—*

*(i) that the landlord intends to live in the let property, [ground 4]*

*(ii) that a member of the landlord's family intends to live in the let property, [ground 5]*

*(iii) that the landlord is not registered by the relevant local authority under the Antisocial Behaviour etc. (Scotland) Act 2004, [ground 16]*

*(iv) that the let property or associated living accommodation is in multiple occupation and not licensed under Part 5 of the Housing (Scotland) Act 2006, or [ground 17]*

*(b) the only eviction grounds stated in the notice to leave are—*

*(i) an eviction ground, or grounds, mentioned in subsection (3B), and*

*(ii) an eviction ground, or grounds, mentioned in paragraph (a).*

## **62 Meaning of notice to leave and stated eviction ground**

*(1) References in this Part to a notice to leave are to a notice which—*

*(a) is in writing,*

*(b) specifies the day on which the landlord under the tenancy in question expects to become entitled to make an application for an eviction order to the First-tier Tribunal,*

*(c) states the eviction ground, or grounds, on the basis of which the landlord proposes to seek an eviction order in the event that the tenant does not vacate the let property before the end of the day specified in accordance with paragraph (b), and*

*(d) fulfils any other requirements prescribed by the Scottish Ministers in regulations.*

*(2) In a case where two or more persons jointly are the landlord under a tenancy, references in this Part to the tenant receiving a notice to leave from the landlord are to the tenant receiving one from any of those persons.*

*(3) References in this Part to the eviction ground, or grounds, stated in a notice to leave are to the ground, or grounds, stated in it in accordance with subsection (1)(c).*

*(4) The day to be specified in accordance with subsection (1)(b) is the day falling after the day on which the notice period defined in section 54(2) will expire.*

*(5) For the purpose of subsection (4), it is to be assumed that the tenant will receive the notice to leave 48 hours after it is sent.*

## **Schedule 3, Part 1**

### **1 Landlord intends to sell**

*(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, and*

*(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.*

## **Findings in Fact**

- 19 The Applicants are the heritable owners of the property. The Applicants are registered landlords.
- 20 The Applicants and the Respondent entered into a private residential tenancy agreement in respect of the property, which commenced on 25 May 2018.
- 21 The tenancy between the parties is a private residential tenancy as defined by section 1 of the 2016 Act.
- 22 On 12 February 2024, the Applicants sent a notice to leave to the Respondent by recorded delivery mail.
- 23 The notice to leave cited ground 1 and stated that an application to the Tribunal would not be made any earlier than 10 May 2024.
- 24 On 30 May 2024 the Applicants submitted a notice under section 11 of the Homelessness etc (Scotland) Act 2003 to Renfrewshire Council by email.
- 25 The Applicants intend to market the property for sale within three months of the Respondent vacating. The Applicants have instructed Castle Residential to act for them in the sale.
- 26 The Applicants have a mortgage over the property with approximately £40,000 outstanding.
- 27 The Applicants intend to sell the property. The Applicants wish to reduce their rental portfolio in order to retire. The Applicants plan to sell off all of their rental properties over the next twelve to eighteen months.
- 28 The Respondent, or persons residing with or visiting her, are suspected to have caused damage to the property. Said damage includes holes in walls, broken doors, and damage to the communal areas. The Applicants are aware of complaints regarding antisocial behaviour by the Respondent and her visitors. The Applicants wish to sell this property first due to the alleged conduct of the Respondent.
- 29 The Respondent is believed to be in her mid thirties or early forties.
- 30 There are no children residing in the property.



- 31 The Respondent has no known health conditions or vulnerabilities. The Respondent is in receipt of benefits.

### **Reasons for Decision**

- 32 The Tribunal took into account the application paperwork and the submissions at the CMDs. The Tribunal was satisfied that it could reach a decision on the application without a hearing under Rule 18 of the Rules, and make relevant findings in fact based on the information provided by the Applicant. The Respondent had not sought to challenge the terms of the application, and had chosen not to participate in the proceedings. There were therefore no issues to be resolved that would require a hearing to be fixed, and the Tribunal was satisfied that to make a decision at the CMD would not be contrary to the interests of the parties.
- 33 Having considered the application paperwork, the Tribunal accepted that the Respondent had been given a notice to leave which complied with the provisions of sections 52, 54 and 60 of the 2016 Act, and that the application could be entertained under section 51 of the Act. The Tribunal therefore went on to consider whether ground 1 had been met in this case.
- 34 The Tribunal accepted that the Applicants were entitled to sell the property as the registered owners. The Tribunal also accepted that the Applicants intended on marketing the property for sale within three months of the Respondent having vacated. The Applicants reasons for doing so were credible in that they wished to gradually reduce their rental portfolio over the next 12 to 18 months in order to retire.
- 35 The Tribunal therefore considered whether it was reasonable to make an eviction order on account of the facts in this case, which required the Tribunal to identify those factors relevant to reasonableness and determine what weight to give to them.
- 36 The Tribunal took into account the Applicants' property rights, which entitled them to dispose of the property. The Tribunal also had regard to the Applicants' reasons for selling the property. They were keen to retire and remove themselves from the private rented sector. In the absence of any evidence to the contrary, the Tribunal accepted that concerns regarding the Respondent's conduct of the tenancy had led to the Applicants' decision to sell this property first out of all of the other properties in their portfolio. These were all factors to which the Tribunal gave significant weight.
- 37 The Tribunal had little information regarding the Respondent's circumstances. She had been given the opportunity to make written representations to the Tribunal regarding the application, and to attend the CMD. She had chosen to do neither. The Tribunal therefore considered it could accept the submissions from Mrs McLelland at the CMD as fact. The Tribunal accepted that the Respondent did not have any dependents residing with her at the property, that she was in her mid 30s to early 40s, and that she was in receipt of

benefits. She had not disclosed any health conditions or vulnerabilities to the Applicants. Whilst the Tribunal had concerns about the general impact of eviction on the Respondent, she had provided no evidence to contradict the information provided by the Applicants. The Tribunal was also aware of the local authority's statutory obligations towards the Respondent in terms of offering emergency accommodation if the Tribunal were to make an eviction order.

38 Accordingly, taking the above into account as factor relevant to the issue of reasonableness, the Tribunal concluded that the balance weighed in favour of making an eviction order in this case and that ground 1 had been met. The Tribunal therefore made an eviction order.

39 The decision of the Tribunal was unanimous.

### **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.**

# R O'Hare

**14 May 2025**

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**Legal Member/Chair**

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**Date**