



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/24/3667

Re: Property at 11 Dunure Street, Coatbridge, ML5 5DN (“the Property”)

Parties:

Mr Jim Lambert, 33 Kittoch Street, East Kilbride, G74 4JW (“the Applicant”)

Miss Lyndsay Power, 11 Dunure Street, Coatbridge, ML5 5DN (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

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”) have been met in this case and that it would be reasonable to make an eviction order.

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

Background

- 1 This is an application for an eviction order under rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 and section 51 of the 2016 Act. The Applicant relied upon ground 1 as the ground for possession, stating that the Applicant intended to sell the property.
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 9 June 2025. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 25 March 2025. Both parties were invited to make written representations. No written representations were received in advance of the CMD.

The CMD

- 3 The CMD took place on 9 June 2025 at 10am by teleconference. The Applicant joined the call. The Respondent was not in attendance. The Tribunal delayed the start time of the CMD for a short period before determining to proceed in her absence, noting that she had received proper notice of the CMD under Rule 17(2) of the Rules.
- 4 The Tribunal had the following information before it:-
 - (i) Form E application form dated 31 October 2024;
 - (ii) Title sheet LAN63389 confirming the Applicant as the registered owner of the property;
 - (iii) Excerpt from the online landlord register confirming the Applicant's landlord registration;
 - (iv) Private residential tenancy agreement between Lendrick Gilles and the Respondent dated 30 November 2018;
 - (v) Notice to leave dated 9 May 2024 together with proof of service upon the Respondent by recorded delivery;
 - (vi) Section 11 notice to North Lanarkshire Council together with proof of delivery by email dated 31 October 2024; and
 - (vii) Email from Hutchesons Solicitors dated 31 October 2024 confirming receipt of the Applicant's instructions to sell the property.
- 5 The Tribunal heard submissions from the Applicant on the application. For the avoidance of doubt the following is a summary of the key elements of the submissions and does not constitute a verbatim account of the proceedings.
- 6 The Applicant explained that he was looking to sell off his rental portfolio. It was no longer affordable due to the increase in mortgage rates. Furthermore, he had a number of tenants who had stopped paying rent, which was exacerbating the situation. It had caused him a lot of stress. His properties were at risk of repossession by the mortgage lenders. The Respondent was paying her rent but the mortgage for the property far exceeded the rent payable. The Respondent wanted to secure council housing. The local authority had advised her that she could only do so if the Tribunal made an eviction order. The Applicant explained that he and the Respondent had a good relationship. He would be willing to allow her additional time to stay in the property until the council found her a house. The Applicant confirmed that he would rather he had control over the eviction process than the mortgage lender for that reason. The Applicant advised that the Respondent resided in the property with her two children who were secondary school age. He believed she was married. He was not aware of any health issues or vulnerabilities.
- 7 The Tribunal adjourned the CMD to deliberate, at which point the Applicant left the call, before resuming the discussion and confirming the outcome.

Findings in Fact

- 8 The Applicant is the registered owner of the property. The Applicant is a registered landlord.
- 9 On 30 November 2018 the Applicant and Respondent entered into a tenancy agreement in respect of the property.
- 10 The tenancy between the parties is a private residential tenancy as defined by section 1 of the 2016 Act.
- 11 On 9 May 2024 the Applicant sent the Respondent a notice to leave by recorded delivery mail. The notice to leave included ground 1. The notice to leave stated that an application would not be made to the Tribunal any earlier than 6 August 2024.
- 12 The notice to leave was in the form prescribed by schedule 5 of the Private Residential Tenancies (Prescribed Notices and Forms) (Scotland) Regulations 2017.
- 13 The Applicant intends to sell the property.
- 14 The Applicant has instructed Hutchesons Solicitors to market and sell the property once vacant possession has been obtained.
- 15 The Applicant is in the process of selling the majority of his rental properties. Due to an increase in mortgage rates, the properties are no longer financially viable. The Applicant is facing repossession proceedings by his mortgage lenders.
- 16 The Applicant has a mortgage over the property. The mortgage payments exceed the contractual rent.
- 17 The Respondent has two children of secondary school age who reside with her.
- 18 The Respondent and her family have no known health issues or vulnerabilities.
- 19 The Respondent has approached the local authority with a view to securing council housing. The making of an eviction order will assist the Respondent in this regard.

Reasons for decision

- 20 The Tribunal was satisfied it had sufficient information before it to make relevant findings in fact and reach a decision on the application having regard to the application paperwork and the submissions heard at the CMD. In terms of Rule 17(4) and Rule 18(1) of the Rules the Tribunal determined that it could make a decision at the CMD as there were no issues to be resolved that would

require a hearing and the Tribunal was satisfied that to make a decision would not be contrary to the interests of the parties.

- 21 Based on the application paperwork the Tribunal was satisfied that the tenancy between the parties was a private residential tenancy, and that the Applicant had given the Respondent a notice to leave that complied with the provisions of the 2016 Act. The Tribunal was also satisfied that the Applicant had given the local authority notice under section 11 of the Homelessness etc (Scotland) Act 2003 of their intention to recover possession of the property. The Tribunal therefore considered whether ground 1 of schedule 3 of the 2016 Act had been met in this case.

- 22 The Tribunal considered the wording of ground 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.”

- 23 The Tribunal was satisfied based on the documents before it that the Applicant was entitled to sell the property as the heritable owner, and that he intended to do so within three months of the tenancy vacating. The Tribunal therefore considered whether it was reasonable to make an eviction order on account of the facts in this case.

- 24 The Tribunal took into account the Applicant's property rights. As the registered owner of the property, he was entitled to dispose of the property as he saw fit. The Tribunal also took into account his reasons for selling the property. The increase in mortgage rates had rendered the tenancy unsustainable. The Tribunal accepted that the Applicant was facing repossession by his mortgage lender as a result. These were all factors to which the Tribunal gave significant weight.

- 25 The Tribunal carefully considered the Respondent's circumstances. Whilst the Respondent had not sought to participate in the proceedings, the Tribunal

accepted the statements from the Applicant at the CMD regarding the Respondent's position on the application. His submissions were clear and consistent. The Tribunal therefore accepted that the Respondent wished to be rehoused by the local authority, and that an eviction order would assist her in that process. Whilst the impact of eviction upon the Respondent and her children was a cause for concern, ultimately the Respondent had not sought to oppose the eviction order. The Tribunal also believed the Applicant when he stated that he would be flexible in allowing the Respondent time to find a suitable council house.

26 Accordingly, having weighed the above factors as relevant to the question of reasonableness, the Tribunal concluded that the balance weighed in favour of making an eviction order in this case.

27 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

9 June 2025

Legal Member/Chair

Date