

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 Ref: FTS/HPC/EV/24/3811

Property : 19a Royal Oak Road, Kirkwall, Orkney KW15 1RF (“Property”)

Parties:

Caroline Jefford, Flat 7, 204A Brixton Road, Brixton, London SW9 6AP (“Applicant”)

DANDHLAW Ltd, 56a Albert Street, Kirkwall, Orkney KW15 1HQ (“Applicant’s Representative”)

Karen Younie and Grant Campbell, 19a Royal Oak Road, Kirkwall, Orkney KW15 1RF (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Melanie Booth (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to make an order for possession of the Property.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement which commenced on 8 July 2019; Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 13 May 2024 ("Notice to Leave") with covering email dated 13 May 2024; email correspondence between the Applicant and Lows Orkney dated 9–24 July 2024 regarding the sale of the Property and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 16 August 2024. A Case Management Discussion (“CMD”) was fixed for 30 May 2025. The Application was served on the Respondent by sheriff officer on 26 March 2025.

Case Management Discussion

A CMD took place before the Tribunal on 30 May 2025 by teleconference. The Applicant was in attendance along with Ms Fisher of the Applicant's Representative. Both Respondents were in attendance.

Ms Younie told the Tribunal that the Respondent did not oppose the application. She said that she and Mr Campbell live in the Property with their 4 month old daughter. She said there were no health or disability issues of which the Tribunal should be aware. Ms Younie said she had spoken with a housing manager at the local authority. She said there was little housing stock available in Orkney and that the Respondent may need to be housed in an air bnb as emergency accommodation. She said they were applying for every house that came up.

Ms Fisher told the Tribunal that the Applicant had never lived on Orkney. She said the Applicant's mother had moved there 40 years ago and the Applicant bought the Property so that she could move to be close to her mother if necessary. She said the Applicant's mother had now died and the Applicant has no need for the Property or any intention to move to Orkney.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property which commenced on 8 July 2019.
2. A Notice to Leave was served on the Respondent by email on 13 May 2024. It stated that an application for an eviction order would not be submitted to the Tribunal before 8 August 2024.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
4. The Applicant holds title to the Property and is entitled to sell the Property.
5. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

Reasons for the Decision

In terms of section 51 of the Act, the 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.

In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell the Property. The evidence lodged with the application of intention to sell was email correspondence between the Applicant and Lows Orkney dated 9–24 July 2024 regarding the sale of the Property. The Tribunal considered the evidence provided and determined that the ground for eviction had been established.

The Tribunal considered the question of reasonableness. In the circumstances, and in light of the Respondent's lack of opposition to the application being granted, the Tribunal determined that it was reasonable to grant an order for possession of the Property.

Decision

The Tribunal determined to grant an order for possession of the Property.

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.

J Devine

**Joan Devine
Legal Member**

Date: 30 May 2025