



**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/25/0762**

**Re: Property at Flat 3/1, 425 Hamilton Road, Uddingston, G71 7SG (“the Property”)**

**Parties:**

**SBC Properties, 6 Railway Road, Airdrie, ML6 9AB (“the Applicant”)**

**Mr Daniel McKay, Flat 3/1, 425 Hamilton Road, Uddingston, G71 7SG (“the Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member) and Ahsan Khan (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”) 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 (“the Rules”) 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. The application was conjoined with an application under Rule 111 of the Rules (*FTS/HPC/CV/24/5591*) as both applications pertained to the same parties and same tenancy.
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 17 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 9 May 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 17 June 2025 at 10am by teleconference. The Applicant was represented by Mrs Marilyn Kent. The Respondent was not in attendance. The Tribunal delayed the start time of the CMD for a short period before determining to proceed in his absence, noting that he had received proper notice of the CMD under Rule 17(2) of the Rules. Mrs Kent was also able to confirm that the Respondent had advised her that he did not intend on coming along to the CMD, and that he was looking for alternative accommodation. The Tribunal was therefore satisfied that he was aware of the proceedings.
- 4 The Tribunal had the following information before it:-
  - (i) Form E application form dated 21 February 2025;
  - (ii) Title sheet LAN174492 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 the parties dated 28 December 2023;
  - (v) Notice to leave dated 25 November 2024 together with proof of service upon the Respondent by email;
  - (vi) Section 11 notice to Glasgow City Council together with proof of delivery by email dated 25 November 2024;
  - (vii) Excerpt from Rightmove.co.uk portal; and
  - (viii) Copy letter from Royal Bank of Scotland to the Applicant with mortgage information.
- 5 The Tribunal heard submissions from Mrs Kent 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 Mrs Kent confirmed that the Applicant sought an eviction order. The Respondent appeared to be still residing in the property, based on text messages he had sent her. The Applicant had attempted to sell the property with the Respondent in situ but had been unable to do so. The Applicant had a mortgage over the property, which had reached the end of its term. The Applicant required the sale proceeds to settle the outstanding balance. The Applicant was facing repossession proceedings by the mortgage lender if the mortgage was not paid. The Respondent had previously discussed purchasing the property but that had not transpired. Mrs Kent believed the Respondent to be in his mid-30s. He was the sole occupant of the property. He was employed as a roofer. He had a son who visited him two or three times a week. There were no known disabilities or vulnerabilities on the Respondent's part as far as

Mrs Kent was aware. The Respondent had recently stopped paying the contractual rent for the property. Rent arrears in the sum of £7200 were now outstanding. The Respondent had provided no explanation as to why he had stopped paying rent.

### **Findings in Fact**

- 7 The Applicant is the registered owner of the property. The Applicant is a registered landlord.
- 8 On 28 December 2023, the Applicant and Respondent entered into a tenancy agreement in respect of the property.
- 9 The tenancy between the parties is a private residential tenancy as defined by section 1 of the 2016 Act.
- 10 On 25 November 2024, the Applicant sent the Respondent a notice to leave by email. The Respondent consented to the use of email for the delivery of notices under clause 4 of the said tenancy agreement.
- 11 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 20 February 2025.
- 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 within three months of the Respondent vacating.
- 14 The Applicant has advertised the property for sale on Rightmove.co.uk with the Respondent in situ. The Applicant has received no interest from prospective purchasers and now requires vacant possession in order to maximise the property's sale potential.
- 15 The Applicant has a mortgage over the property. The mortgage term expired on 20 March 2022. The outstanding balance is approximately £115,000. The Applicant requires to sell the property to repay the mortgage. If the Applicant does not do so, it is likely that the mortgage lender will commence repossession proceedings against the Applicant.
- 16 The Respondent resides in the property alone. The Respondent has a son who visits with him on occasion. The Respondent is in his mid-30s and is employed as a roofer.
- 17 The Respondent is in arrears of rent. As at the date of this decision, arrears in the sum of £7200 have accrued.

18 The Respondent has no known disabilities or vulnerabilities.

### Reasons for decision

- 19 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. The Tribunal had provided the Respondent with the opportunity to make written representations, and to attend the CMD, but he had chosen not to do so.
- 20 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.

21 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.”*

22 The Tribunal was satisfied based on the documents before it, and the submissions from Mrs Kent, that the Applicant was entitled to sell the property as the heritable owner, and intended on doing so within three months of the tenant vacating. Their reasons for doing so were credible based on the outstanding mortgage balance, as evidenced by the correspondence from the

mortgage lender. The Tribunal therefore considered whether it was reasonable to make an eviction order on account of the facts in this case.

- 23 The Tribunal took into account the Applicant's property rights. As the registered owner of the property, the Applicant was entitled to dispose of the property as they saw fit. The Tribunal also took into account their reasons for selling the property. They required the sale proceeds in order to repay the mortgage, otherwise, they were facing repossession by the mortgage lender. The Tribunal accepted that they had explored the prospect of selling with the tenant in situ but had received no interest from prospective purchasers. It was therefore clear that the application for an eviction order was a last resort. These were all factors to which the Tribunal gave significant weight.
- 24 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 Mrs Kent at the CMD on this point. Her submissions were clear and consistent. The Tribunal therefore accepted that the Respondent was the sole tenant of the property. Whilst he had a son who stayed with him on occasion, the Tribunal noted that the property was not the child's only home. The Respondent was also in breach of his obligations in terms of the payment of rent for the property. This was not a ground for possession upon which the Applicant sought to rely, but the arrears were a relevant factor in the Tribunal's consideration of reasonableness. The Respondent had failed to pay rent for a prolonged period of time, to the detriment of the Applicant, and there was no reasonable explanation as to why this was the case. The Tribunal accepted that he was in employment, and that there were no known health issues or vulnerabilities. The Respondent had not sought to put forward any contradictory evidence to counter the Applicant's submissions, which the Tribunal accepted as fact.
- 25 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.
- 26 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.**

Ruth O'Hare

17 June 2025

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**Legal Member/Chair**

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**Date**