



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/24/5162

Re: Property at 94 Burleigh Street, Coatbridge, ML5 4JH (“the Property”)

Parties:

Omar Iqbal, 112 Haggs Road, Glasgow, G41 4AT (“the Applicant”)

Kirsty Bennett, 94 Burleigh Street, Coatbridge, ML5 4JH (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Nicholas Allan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction should be granted.

Background

1. On 8th November 2024 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - i. Copy Private Residential Tenancy Agreement showing a commencement date of 5th October 2022 and a rent of £700 per month;
 - ii. Copy Notice to Leave dated 5th August 2024;
 - iii. Copy email dated 5th August 2024 to the Respondent serving the Notice to Leave;
 - iv. Section 11 Notice and proof of service.

3. The Application was served on the Respondent by Sheriff Officers on 10th April 2025.

Case Management Discussion

4. The Case Management Discussion (“CMD”) took place by teleconference. The Applicant was represented by Ms Hunter of HomeLink Estate Agents and Letting. There was no attendance by the Respondent or any representative on her behalf.
5. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
6. Ms Hunter sought an order for eviction in terms of ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. She confirmed that the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it.
7. The Tribunal were satisfied that the ground had been established and asked Ms Hunter to address the Tribunal on reasonableness. She said that the Respondent is a single parent with three primary school aged children. She originally moved in to the property with a partner, but he left. When he left the Respondent started to accumulate rent arrears. Since the Notice to Leave was served the rent arrears have risen substantially. They now stand at £9100. The respondent is not in employment and is not paying her housing benefit to the Applicant. Ms Hunter’s agency have contacted her by visit, by telephone, by email and by WhatsApp, but no payment has been forthcoming. The property has not been adapted to assist anyone with disabilities.

Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing 5th October 2022 and a rent of £700 per month
- b. A Notice To Leave, dated 5th August 2024, was served timeously and correctly;
- c. A section 11 notice was served on the local authority;
- d. The Application was served on the Respondent by Sheriff Officer on 10th April 2025;
- e. The Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it;
- f. The Respondent lives in the house with three young children;
- g. The Respondent is in rent arrears to the extent of £9100.

Reasons for Decision

8. Ground 1 of Schedule 3 of the Act states as follows:

1(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,

(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.

9. The Tribunal is satisfied that the ground has been established as the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it. The Tribunal also considers in those circumstances that it is reasonable to grant the order taking in to the account the level of rent arrears and the Respondent's refusal to pay. The ground of eviction is that the Applicant intends to sell, but the level of arrears is relevant to reasonableness. In addition, the respondent has not made any attempt to engage in the Tribunal procedure.

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.

Alison Kelly

5th June 2025

Legal Member/Chair

Date