



**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/24/4999**

**Re: Property at 50 Barterholm Road, Flat 1/1, Paisley, PA2 6PD (“the Property”)**

**Parties:**

**Mr Stuart Jamieson, 8 Pinehill Grove, Bangor, Co Down, BT19 6NZ (“the Applicant”)**

**Mr Jamie Alexander Hackett, Ms Elizabeth Lauchlan, 50 Barterholm Road, Flat 1/1, Paisley, PA2 6PD (“the Respondent”)**

**Tribunal Members:**

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

In terms of Rule 16A of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”), the Tribunal further determined to suspend execution of the order for a period of two months.

**Background**

- 1 This is an application for an eviction order under rule 109 of 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.
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 18 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 1 April 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 18 June 2025 at 10am by teleconference. All parties joined the call. The Applicant confirmed that he would be representing himself as his representative from Castle Residential was unavailable.
- 4 The Tribunal had the following information before it:-
  - (i) Form E application form dated 30 October 2024;
  - (ii) Title sheet REN84404 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 23 November 2018;
  - (v) Notice to leave dated 2 August 2024 together with proof of service upon the Respondents by email;
  - (vi) Section 11 notice to Renfrewshire Council together with proof of delivery by email dated 30 October 2024;
  - (vii) Email from the Applicant authorising Castle Residential to act as his representative in the application;
  - (viii) Emails between Castle Residential and the Respondents;
  - (ix) Sole Selling Rights Agreement between Castle Residential and the Applicant; and
  - (x) Email from the Applicant with letter from Silverbirch Medical Practice.
- 5 The Tribunal heard submissions from the parties 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 did not want to sell the property. He needed to in order to support his mother. Her health had slowly been declining over the last few years. She had difficulties with her speech and her physical mobility following a stroke. The Applicant's father had passed away in 2023, which had resulted in a loss of income. His mother's property was subject to a mortgage, and there were costs associated with her care. Her home had been partly adapted to meet her needs, and would likely require further adaptations in future. It was becoming more and more financially challenging. His mother was confined to her house. She required assistance with her daily activities. The Applicant confirmed that he had five rental properties in his rental portfolio, which he had purchased as an investment. However, the property which was the subject of this application was the only one not subject to a mortgage. The sale proceeds would clear his mother's mortgage. The Applicant confirmed that his mother's housing needs were being assessed, and sheltered accommodation had been considered. Any decision would need to incorporate his mother's wishes. She had resided in her

home since 1984, and was uncomfortable with change. The Applicant confirmed that he held power of attorney with his mother, but he was able to understand her in conversation. The Applicant believed that ground 1 had been met in this case.

- 7 Ms Lauchlan spoke on behalf of the Respondents. She understood the Applicant's situation, being a full time carer for her own parents. Since receiving the notice to leave, the Respondents had applied to all of the housing associations in the local area. They had not yet been successful in securing a property. They had spoken with the local authority's homeless team who had told them that they would need to wait to receive an eviction order before the local authority could assist them. There was a housing crisis and many other people were in the same situation. The Respondents were unable to afford a private let in the local area. Mr Hackett was in full time education and worked part time. Ms Lauchlan had given up work to care for her parents. Both of the Respondents had mental health issues, which had been exacerbated by their housing situation. Ms Lauchlan also had some lower back pain. They had no children residing in the property with them and were the sole occupants. They desperately wanted to leave the property. They were not opposing the eviction order. It would allow them to secure housing with the local authority, even if this was on a temporary basis. They would be able to cope with this, as they had no other option.
- 8 The Tribunal asked the Applicant if he would have any objection, were the Tribunal to make an eviction order, in a suspension of enforcement for two months. The Applicant stated that he would not object to this, provided the Respondents allowed access for survey reports. Ms Lauchlan confirmed that they would do so.
- 9 The Tribunal adjourned the CMD to deliberate, at which point parties left the call, before resuming the discussion and confirming its decision.

### **Findings in Fact**

- 10 The Applicant is the registered owner of the property. The Applicant is a registered landlord.
- 11 On 23 November 2018, the Applicant and Respondents entered into a tenancy agreement in respect of the property.
- 12 The tenancy between the parties is a private residential tenancy as defined by section 1 of the 2016 Act.
- 13 On 2 August 2024, the Applicant sent the Respondents a notice to leave by email. The Respondents consented to the use of email for the delivery of notices under clause 4 of the said tenancy agreement.
- 14 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 29 October 2024.

- 15 The notice to leave was in the form prescribed by schedule 5 of the Private Residential Tenancies (Prescribed Notices and Forms) (Scotland) Regulations 2017.
- 16 The Applicant intends to sell the property within three months of the Respondent vacating.
- 17 The Applicant requires to sell the property in order to release funds to support his mother. The Applicant's mother is disabled, following a stroke, and resides alone. She is unable to carry out her daily activities without support. The Applicant's father passed away in 2023. The Applicant's mother's home is subject to a mortgage. The Applicant's mother has resided there since 1984.
- 18 The Applicant has five rental properties in the Paisley area. The property that is the subject of this application is his only rental property not subject to a mortgage. The sale proceeds would clear the mortgage on his mother's home.
- 19 The Respondents are the sole occupants of the property. The Respondents both have mental health issues, which have been exacerbated by their housing situation.
- 20 The Respondents are unable to afford a private let in the local area. The first Respondent is a full time student with a part time job. The second Respondent is a full time carer for her parents.
- 21 The Respondents have applied to local housing associations for rehousing and have sought advice from the local authority. The local authority has advised the Respondents that they will provide them with accommodation if the Tribunal makes an eviction order.
- 22 The Respondents do not object to the granting of an eviction order.

### **Reasons for decision**

- 23 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. It was clear that the parties were broadly in agreement regarding the substantive matters in this case.
- 24 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 Respondents 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 his 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.

25 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.”*

26 The Tribunal was satisfied that the Applicant was entitled to sell the property as the heritable owner, and intended on doing so within three months of the Respondents vacating. He was open and frank in his submissions to the Tribunal at the CMD, which were supported by the documents produced. The Tribunal found his reasons for selling to be credible, in that he required the sale proceeds to support his mother. The Tribunal therefore considered whether it was reasonable to make an eviction order on account of the facts in this case.

27 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 he saw fit. The Tribunal also took into account his reasons for selling the property. It was clear that his mother required a high level of care, which would come at significant cost. Whilst the Applicant had other rental properties, he had chosen this property to sell, as it would provide him with the highest return. It would put him in a position whereby he could pay off his mother's mortgage, thereby reducing the financial strain upon his family. These were all factors to which the Tribunal gave significant weight.

28 The Tribunal carefully considered the Respondents' circumstances. Whilst the risk of homelessness to the Respondents was a cause for concern, ultimately the Respondents did not dispute the application. They were keen to vacate the property, and had been advised by the local authority that they would be offered accommodation if the Tribunal made an eviction order. There were no children in the property who would be at risk of homelessness. The Tribunal was however mindful of the current housing crisis in Renfrewshire, and the challenges the local

authority may face in finding the Respondents suitable accommodation, whether on a permanent or temporary basis. The Tribunal therefore considered it would be reasonable to suspend the execution of the order for a period of two months to provide the local authority with sufficient time to source suitable housing for the Respondents. The Applicant did not object to this.

29 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, with execution of the order suspended for a period of two months.

30 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

**Legal Member/Chair**

**Date: 18 June 2025**