



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51(1) of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/24/5141

**Re: Property at 3/5 FERRY ROAD DRIVE, EDINBURGH, EH4 4BD (“the
Property”)**

Parties:

**Mr Adam Zheyin Ng, 104 Wemyss Street, Rosyth, Dunfermline Fife, KY11 2JZ
 (“the Applicant”)**

**MR IKENNA ONWUNABONZE, CHINENYE OBIUJUNWA UDEH, 3/5 FERRY
ROAD DRIVE, EDINBURGH, EH4 4BD (“the Respondents”)**

Tribunal Members:

Graham Harding (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant was entitled to an order for the eviction
of the Respondents from the property but that enforcement of the order be
postponed for a period of two months.**

Background

1. By application dated 7 November 2024 the Applicant’s representatives, South Scotland Lets, Edinburgh, applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a copy of a tenancy agreement, Notice to Leave with execution of service, Section 11 Notice, a Home Report and a letter of appointment by selling agents together with other documents in support of the application.

2. By Notice of Acceptance dated 5 December 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion ("CMD") was assigned.
3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 18 March 2025.
4. By email dated 22 April 2025 the Tribunal received a mandate from the Respondents' representatives Community Help and Advice Initiative, Edinburgh ("CHAI").
5. By email dated 19 May 2025 the Respondents' representatives submitted written representations to the Tribunal.

The Case Management Discussion

6. A CMD was held by teleconference on 22 May 2025. Miss Selina Law from the Applicant's representatives attended on behalf of the Applicant. The First Named Respondent attended in person and Mr Andrew Wilson from CHAI represented the Respondents.
7. The Tribunal noted from Mr Wilson that the Respondents were not opposing the application. Mr Wilson said that the Respondents accepted that it was reasonable that the application be granted and went on to explain that the Applicant had marketed the property for sale with sitting tenants but had been unable to find a buyer and the Respondents accepted they would have to leave the property. Mr Wilson went on to say that the Respondents were dependent upon being rehoused by the local authority who would not take any steps to rehouse the family unless and until the Tribunal granted an order for their eviction. Mr Wilson also said that the Respondents had a family holiday booked from 6 to 16 July and asked that the Tribunal consider delaying enforcement of the order until the end of July to allow time for the local authority to find suitable accommodation and for the holiday to take place.
8. In response to a query from the Tribunal Mr Wilson said that the Respondents had two children living with them aged 6 months and 2 years 4 months. Mr Wilson advised the Tribunal that the First Named Respondent was in full time employment but that the Second named Respondent was currently not able to work given the age of her second child.
9. In response to a further query from the Tribunal, Miss Law advised that the Respondents currently owed rent of £1010.00 and had accrued arrears since 2023. Miss Law went on to say that an offer to purchase the property in February 2025 had been withdrawn when the Respondents had refused to vacate the property and the Applicant was looking to recover the property at the earliest date he could. Miss Law explained that the Applicant wished to sell the property which she understood to be

the Applicant's only let property as he needed funds to assist with the care of his elderly mother and to ease his financial difficulties.

Findings in Fact

10. The Respondents commenced a Private Residential Tenancy of the property on 1 October 2022.
11. A Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act was served on the Respondents on 1 April 2024.
12. A Section 11 Notice was sent to Edinburgh City Council on 14 October 2024.
13. The Applicant has instructed HSTN Chrissling Properties Limited to market the property for sale.
14. The Applicant has obtained a Home Report from D M Hall Chartered Surveyors.
15. The Applicant's mother suffers from ill health and the Applicant requires funds to care for her and the sale of the property will alleviate the Applicant's financial difficulties.
16. The Respondents have accrued rent arrears since 2023 amounting to £1010.00
17. The Respondents live in the property with their 6-month-old and 2-year-4-month-old children.
18. The Respondents have a family holiday booked to take place from 6 to 16 July 2025.
19. The Respondents cannot afford to move to other private rental accommodation.
20. The Respondents have applied to the local authority for housing.

Reasons for Decision

21. The Tribunal was satisfied from the documents submitted and the oral submissions of both parties that the parties entered into a Private Residential tenancy that commenced on 1 October 2022. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 1 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to Edinburgh City Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced and the Applicant's oral submissions that

the Applicant has used Chrissling Properties Limited to market the property for sale and that no purchaser has been found to buy the property with the Respondents remaining in the property.

22. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondents from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that the Respondents accepted that it was reasonable that an order for their eviction be granted and that the only issue was whether the Tribunal should suspend enforcement of the order until the end of July 2025. In reaching its decision the Tribunal took account of the length of time the Applicant had been marketing the property and that a potential sale had been lost due to the Respondents remaining in the property and that the Applicant wished to recover vacant possession as quickly as possible. Nevertheless, the Tribunal also acknowledged that the Respondents had two very young children to care for and that the local authority would not assist them in finding accommodation as homeless persons unless and until the Tribunal granted an order for their eviction. In addition, the Tribunal was aware as the Respondent's representative had submitted in his written submissions that the local authority had declared there was a housing crisis. The Tribunal did not consider that the fact that the Respondents had a family holiday booked in July was a particularly significant factor affecting its decision but given the children's ages and the difficulties facing the local authority and the fact that the Respondents were unable to afford private rental accommodation the Tribunal was satisfied that it was reasonable to suspend enforcement of the order for eviction for a period of two months.

Decision

23. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for the eviction of the Respondent from the property but that enforcement of the order should be suspended for a period of two months from the date of the decision.

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.

G Harding

Legal Member/Chair

Date: 22 May 2025