



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/EV/24/2959

Re: Property at 44 Riddochhill Road, Blackburn, Bathgate, EH47 7ER (“the Property”)

Parties:

Mr Alan Bishop, 40 Mosside Terrace, Bathgate, West Lothian, EH48 2UJ (“the Applicant”)

Mr Stuart Mclean, Miss Michaela Jain Redmond, 44 Riddochhill Road, Blackburn, Bathgate, EH47 7ER (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

BACKGROUND

1. By lease dated 10th September 2020 the Applicant let the Property to the Respondents.
2. A notice to leave dated 12th March 2024 was served upon the Respondents. This intimated the Applicant wished an eviction order as he intended to sell the Property.
3. A notice in terms of s11 of the Homeless Etc. (Scotland) Act 2003 was intimated to the local authority.

4. An application dated 27th June 2024 was subsequently lodged with the Tribunal seeking an order for eviction on the basis the landlord intended to sell the Property.
5. The application to the Tribunal was supported by documentation confirming the intention to sell.

THE CASE MANAGEMENT DISCUSSION

6. A case management discussion was held by teleconference at 2pm on 29th November 2024. The Applicant was represented by Mr L Bryan of Messrs Sneddon Morrison Solicitors, Livingston. The First Respondent did not participate in the case management discussion. The Second Respondent did.
7. Initially, the Second Respondent intimated that she did not feel she could oppose the application. It became apparent, however, that she was unaware of her right to do so or any basis upon which she may be entitled to do so. Given the position of the Respondents, as it evolved in the course of the case management discussion, it became clear that the application for an eviction order was opposed on the grounds it is not reasonable for the order to be granted. In those circumstances, Parties agreed that a hearing should be fixed.

THE HEARING

8. A hearing was conducted by teleconference on 7th February 2025. The Applicant participated. He was again represented by Mr L Bryan of Messrs Sneddon Morrison, Solicitors, Livingston. The first named Respondent did not participate in the hearing. The Second Named Respondent participated personally on behalf of both Respondents.
9. The hearing had been assigned to consider the issue of reasonableness of an order for eviction. That was due to the family circumstances of the Respondents.
10. Miss Redmand advised the Tribunal that she and her partner have a nine year old daughter. Both she and her daughter have autism. Her daughter has had a formal diagnosis of autism now. Her daughter also has ADHD. Prior to her diagnosis she had regular appointments with CAMHs. Since the formal diagnosis has been made, her daughter is now on a separate waiting list for treatment.
11. The daughter of the Respondents was diagnosed with ADHD on 29th October 2024. She struggles with changes to her routine and this impacts her school and social life.

12. In relation to a possible eviction, it was suggested that this would be disruptive for the family. The daughter of the Respondents, due to her autism, requires a settled routine. She attends a local primary school. The family live in close proximity to the Second Respondent's mother who provides significant support to the family. Needing to relocate will affect the family unit, and the child in particular. Any change in routine requires to be planned well in advance for the benefit of the child.
13. In relation to obtaining alternative accommodation, the Respondents advised that obtaining a separate private let is not possible due to the rent currently being charged for similar properties. The rent being paid for the Property is £550.00 per month. Similar properties locally are now in the region of £900.00 per month. In addition, depending on where the property was, it would have a significant impact on transport arrangements for the family, and the child in particular, in relation to her schooling. The Respondent advised, however, that if alternative accommodation anywhere in Blackburn was available that would not be overly disruptive for the family.
14. The Respondents do not receive any benefits to assist with payment of rent. Rental payments, however, are not an issue and do not form any part of the ground for eviction.
15. If an eviction order is granted the Respondents will need to seek local authority accommodation. An eviction order will assist in local authority accommodation being offered. They are hopeful if they require to move they will be offered local authority accommodation in Blackburn.
16. In relation to the Applicant, he confirmed his intention to sell the property and had previously provided proof of that via his solicitors. He explained that there were three main reasons he wished to sell: -
- a) He initially had 6 flats which he bought during 2006 and 2007. At that time his lifestyle was entirely different from the present day. He was a single man, worked as an IT contractor, often worked away and the flats were acquired with a view to securing his future. Now he is in full time paid employment and married with a child.
 - b) The Property no longer provides any financial benefit to the Applicant in terms of income. The rental income was £6,660.00 per year. His outgoings, however, include management fees of £1,259.00 per year, gas safety certification of £80.00 per year, property insurance of £310.00 per year and mortgage interest of £4,472.00 per year. Those fixed outgoings amount to £6,121.00, leaving an annual profit from rental income of £480.00. That figure, however, assumes there will be no additional outlays in connection with the Property, for example repair costs. He is a higher rate taxpayer and, therefore, the taxation on his profit leaves him with a negligible income from the Property, assuming there have been no additional costs. Any additional costs result in him sustaining a loss on the Property.
 - c) The Applicant is trying to consolidate his retirement plans. He has sold all other properties which were previously rented by him. This is the last

rental property he has. He has no significant saving funds. Once the Property is sold the free proceeds would be used to repay the existing mortgage, to repay other debts in the name of the Applicant and to make pension provisions for his future.

17. Upon further discussion with and between the Parties, the Second Respondent intimated that an eviction order would assist in obtaining local authority accommodation. The Second Named Respondent accepted that, if any eviction was deferred until summertime, it would hopefully enable her to secure local authority accommodation, enable a move during the school summer holidays and that would assist by avoiding disruption for her daughter during the school term. The Applicant confirmed, through his solicitor, that he would have no difficulty with a date of enforcement for any eviction order being deferred.
18. The Tribunal having considered matters determined that it was reasonable that an eviction order be granted. Thereafter, with the agreement of the Parties, the date of enforcement of any eviction was deferred until 18th July 2025.

FINDINGS IN FACT

19. The Tribunal found the following facts to be established: -
- a) By lease dated 10th September 2020 the Applicant let the Property to the Respondents.
 - b) A notice to leave dated 12th March 2024 was served upon the Respondents. This intimated that eviction was sought as the Applicant intended to sell the Property.
 - c) A notice in terms of s11 of the Homelessness Etc (Scotland) Act 2003 was intimated to the local authority.
 - d) The Applicant has instructed solicitors to market and sell the Property once vacant possession is obtained.
 - e) The Applicant previously had six properties rented by him. He has disposed of the other five properties. This is the last property the Applicant has for rental purposes.
 - f) The Applicant makes little or no profit from the rental of the Property. In the event any repairs or unexpected costs arise in relation to the Property the Applicant will make a loss on the rental of the Property.
 - g) The Applicant wishes to sell the Property to repay the existing mortgage, to repay other debts and to use any remaining funds to make pension provision for his future.
 - h) The Respondents reside at the Property with their nine year old daughter. The child has a diagnosis of autism and ADHD.
 - i) The child attends a local primary school.
 - j) The Respondents live near the Second Respondent's mother who provides significant practical support to the family.
 - k) A house move would cause disruption and upset for the child, particularly having regard to her diagnosis of autism.

- l) If the Respondents required to move, provided they had ample notice and were rehoused in Blackburn, steps could be taken to alleviate the effects of any such move upon their daughter.
- m) The Respondents are not able to obtain alternative private let accommodation due to the cost of the same.
- n) The grant of an eviction order would assist the Respondents in obtaining local authority accommodation.
- o) In the event an eviction is granted, it would assist the Respondents in the management of their daughter if the date of any eviction was deferred until during the school summer holidays.

REASONS FOR DECISION

- 20. The Applicant wishes to sell the Property as he wishes to terminate his involvement in the residential rental property market business. He previously had six properties which were rented. He has disposed of the other five and now wishes to dispose of this Property.
- 21. The Property provides no financial benefit to the Applicant by way of income from rental. Indeed, in the event any repairs or unexpected costs arise in relation to the Property, the rental of the Property will make a loss for the Applicant each financial year.
- 22. The Applicant is married with a child. He wishes to make provision for his retirement. He requires to sell the Property to do so. He has no significant savings.
- 23. The Respondents have resided at the Property since September 2020. They reside there with their daughter who has now been diagnosed with autism and ADHD.
- 24. While it is recognised that persons with autism benefit from having a stable and settled daily routine, the Tribunal acknowledges also that does not mean that routines cannot be changed. It was accepted by the Respondents that changes of routine can happen but require to be planned and managed.
- 25. In the circumstances, having regard to the information provided by the Applicant, the Tribunal considered that it was reasonable that an eviction order be granted to enable the Property to be sold.
- 26. While the position of the Respondents is understandable, the Tribunal considered that the concerns of the Respondent in relation to any upset to their family life and the routine of their child can be managed by the date of enforcement of an eviction order being deferred until 18th July 2025, that being approximately midway through the school summer holidays and more than 5 months after the date of the hearing.

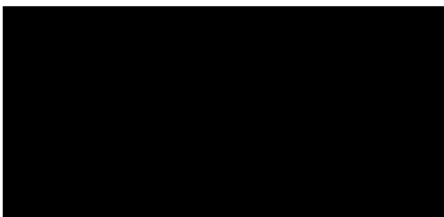
DECISION

The Tribunal granted an order against the Respondents for eviction of the Respondents from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 of Schedule 3 to said Act.

Order not to be executed prior to 12 noon on 18th July 2025

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.



Legal Member/Chair

7th February 2025

Date