

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 58 of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/PR/24/3662

Re: Property at TF 53 Bon Accord Street, Aberdeen, AB11 6EB (“the Property”)

Parties:

Miss Anna-Carina Plones, 21B Cairnfield Place, Bucksburn, AB21 8LT (“the Applicant”)

**Mr Douglas Walker, Mrs Sandra Walker, Kittle Strips, Ettrickbridge, Selkirk,
TD7 5JJ (“the Respondents”)**

Tribunal Members:

George Clark (Legal Member)

Decision

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

Background

1. By application, dated 10 August 2024, the Applicant sought an Order under Sections 58 and 59 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) for a wrongful termination without eviction.
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 29 March 2021 at a rent of £525 per month, a Notice to Leave, dated 28 May 2024, stating that the Respondents intended to sell the Property and that no application to the Tribunal would be made before 20 August 2024, and screenshots of an advertisement for the Property at £675 per month. She also included copies of email correspondence with the letting agents, including one of 28 May 2024, in which they copied to her the email from the Respondent Mr Walker, instructing them to proceed with a sale. There was also an email of 31 May

2024, three days after the Notice to Leave was sent, saying that the Applicant should regard the email as formal retraction of the Notice to Leave.

3. The Applicant stated that the Notice to Leave claimed that the Respondents wanted to sell and asked them to leave by 20 August 2024. They moved out on 19 July 2024. The Applicant had then seen the Property advertised on 9 August 2024 for rent, available on 14 August 2024, with the rent increased by £150. One of the neighbours had been a potential buyer, but he had never seen a Home Report and the indications were that the Respondents never truly intended to sell. The Applicant had planned to stay for at least another year, but was due to undergo a course of fertility treatment, so felt she had to find alternative accommodation and leave. She was looking for compensation of £2,040, being 12 months' reimbursement of the additional rent she had to pay for her new flat, plus £200 for a residents' car parking permit she had bought just before she received the Notice to Leave and £300 to cover moving costs, a total of £2,540.
4. On 15 February 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 8 March 2024. The Respondents did not make any written representations to the Tribunal.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 11 June 2024. The Applicant and the Respondent Mr Walker were present.
6. The Applicant told the Tribunal that she accepted that the Notice to Leave had been retracted, but the tone of the correspondence suggested to her that it was really only being put on hold. She contended that the Respondents had known of a valuation of the Property on 5 June 2024 and had decided not to sell at that time but had done nothing directly or through their letting agents to tell the Applicant. Had they done so, she would have been stayed on and would have been able to have a discussion with the agents about a proposal by the Respondents to increase the rent. The Respondents had wished to do this earlier in the year but were constrained by the Scottish Government's rent controls in force at the time. As she heard nothing, however, she felt she had to find another flat and, as a consequence gave Notice to Leave herself on 17 June 2024.
7. The Respondent Mr Walker told the Tribunal that it was unfortunate timing. He had been on holiday when the valuation figure, at considerably less than he was anticipating, was sent to him and he had not returned to Scotland until 19 June 2024, so had done nothing in the meantime,

Reasons for Decision

8. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a

Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation it required to enable it to decide the application without a Hearing.

9. Section 58 of the Act applies where a private residential tenancy has been brought to an end in accordance with Section 50 of the Act. Section 50 provides that a tenancy which is a Private Residential Tenancy comes to an end if (a) the tenant has received a Notice to Leave from the landlord and (b) the tenant has ceased to occupy the let property. The Tribunal may make a wrongful-termination order if it finds that the former tenant was misled into ceasing to occupy the let property by the landlord.
10. The Tribunal considered carefully all the evidence, written and oral, before it. It had considerable sympathy for the Applicant, who, due to perfectly understandable personal circumstances, felt that she could not take the risk of finding herself homeless, so took steps to find alternative accommodation when she received the Notice to Leave. She accepted that the Notice to Leave had been withdrawn but took the view that it was likely to be reissued. Indeed, the letting agents had said in their email of 31 May 2024 that if neither of two named parties purchased the Property by a future date to be agreed between the Respondents and the agents, they would issue a new Notice to Leave. They had said that they would inform the Applicant of the timeline of a purchase, but she heard nothing further. The Tribunal noted, however, that the Notice to Leave had been formally retracted on 31 May 2024, only three days after it was served. Accordingly, the requirements of Section 58 were not met as there was no longer an extant Notice to Leave. Accordingly, irrespective of the intentions of the Respondents, the application must fail.

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.

George Clark

Legal Member/Chair

11 June 2025

Date

