



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/24/4178

Property : 5A Stewarton Street, Wishaw, North Lanarkshire ML2 8AA ("Property")

Parties:

Julie Savage, 38 Greenfield Crescent, Brighton, East Sussex BN1 8HJ ("Applicant")

Reid Solicitors, 194 Quarry Street, Hamilton, South Lanarkshire ML3 6QR ("Applicant's Representative")

Pamela McElhinney, 5A Stewarton Street, Wishaw, North Lanarkshire ML2 8AA ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined to make an order for possession of the Property.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement which commenced on 23 December 2019; Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 14 May 2024 ("Notice to Leave") with covering email dated 13 May 2024 timed at 21.04; certificate dated 29 March 2022 issued by the Office of the Public Guardian confirming the Applicant's authority to act on behalf of Henry Joseph Savage; letter from the Applicant's Representative dated 7 December 2024 noting the Applicant's intention to sell the Property once vacant possession obtained in order to meet care costs for Mr Savage and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email. A Case Management

Discussion (“CMD”) was fixed for 26 June 2025. The Application was served on the Respondent by sheriff officer on 3 April 2025.

Case Management Discussion

A CMD took place before the Tribunal on 26 June 2025 by teleconference. Andrew Reid of the Applicant’s Representative was in attendance as was the Applicant. There was no appearance by or on behalf of the Respondent.

Mr Reid told the Tribunal that there had been no recent contact from the Respondent. He said that she lives in the Property alone and he believed she is employed in a support role. He said that the Respondent had not paid the rent since March 2024 aside from one payment made in May 2025. He said that the arrears are in excess of £7500. Mr Reid told the Tribunal that Mr Savage purchased the Property as an investment for retirement but is currently obtaining no benefit from the tenancy. He said that Mr Savage is in poor health and his care costs are escalating.

The Applicant told the Tribunal that her father, Mr Savage, is in a care home and the Property needs to be sold to meet care costs. She said that there is a charging order on the Property. She said that the mortgage on the Property is interest only and expired some time ago. She said that she requires to update the mortgage provider every 2 weeks as regards progress with obtaining possession as they will otherwise step in and repossess the Property.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property which commenced on 23 December 2019.
2. A Notice to Leave was served on the Respondent by email on 13 May 2024. It stated that an application for an eviction order would not be submitted to the Tribunal before 9 August 2024.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
4. Henry Joseph Savage holds title to the Property and is entitled to sell the Property.
5. The Applicant is entitled to act on behalf of Henry Joseph Savage in terms of certificate dated 29 March 2022 issued by the Office of the Public Guardian

6. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

Reasons for the Decision

In terms of section 51 of the Act, the Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell the Property. The evidence lodged with the application of intention to sell was a letter from the Applicant's Representative dated 7 December 2024 noting the Applicant's intention to sell the Property once vacant possession obtained in order to meet care costs for Mr Savage.

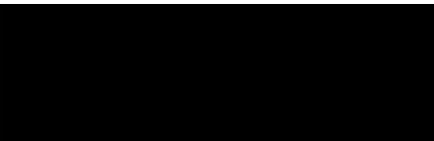
The Tribunal considered the question of reasonableness as set out in the documents lodged and the oral submissions from the Applicant and her Representative. In all the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to grant an order for possession of the Property.

Decision

The Tribunal determined to grant an order for possession of the Property.

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.



**Joan Devine
Legal Member**

Date : 26 June 2025