



**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/24/5863

**Re: Property at 109 Cedar Drive, East Kilbride, Glasgow, South Lanarkshire, G75
9HZ (“the Property”)**

Parties:

**Mr George McCarroll, 4468 Caminito Pedernal, San Diego, California, 92117,
United States (“the Applicant”)**

**Ms Dora Petyik, Mr Seide Mahmood Hosseini Haghighi, 109 Cedar Drive, East
Kilbride, Glasgow, G75 9HZ (“the Respondents”)**

Tribunal Members:

Nicola Irvine (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant is entitled to the Order sought for
recovery of possession of the property.**

Background

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondents from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 12 April 2025 informing both parties that a CMD had been assigned for 15 July 2025 at 10am, which was to take place by conference call. In that letter, the parties were also told that they were required to take part

in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondents were invited to make written representations by 3 May 2025.

The case management discussion – 15 July 2025

4. The CMD took place by conference call. The Applicant was represented by Miss Simone Callaghan. The Respondents did not join the conference call, and the discussion proceeded in their absence. The Tribunal explained the purpose of the CMD.
5. The Tribunal observed that the application was submitted before the period of notice in the Notice to Leave (“NTL”) had expired. The Tribunal asked for submissions in relation to section 52(4) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) as to why the Tribunal should exercise discretion and allow the application to be entertained. It was submitted that the NTL became live in March 2025. There is a background to this application, and it was submitted that in the particular circumstances applying to these parties, it is reasonable for the Tribunal to exercise discretion in favour of the application proceeding, notwithstanding the fact that the application breached section 54 of the 2016 Act. The Applicant had previously served a NTL on the Respondents on 23 October 2023, requiring the Respondents to leave the Property by 17 January 2024. That NTL expired on 17 July 2024, and the Applicant submitted an application for eviction on 19 July 2024. By that date, the NTL served on 23 October 2023 had expired and accordingly the application was withdrawn at a CMD on 13 December 2024. The Respondents had the benefit of notice as far back as October 2023 that the Applicant intended to sell the Property. The Respondents also had notice that the Applicant had applied to the Tribunal, so they were aware that the Applicant still wished to sell the Property.
6. At the conclusion of these submissions, the Tribunal asked for information about the parties’ circumstances, so that the Tribunal could consider whether the ground of eviction was established and the issue of reasonableness. The Applicant is 69 years of age and lives in the USA. The Property is his only rental property, and he wishes to cease activity as a landlord. A major factor in the Applicant’s decision to sell the Property is the level of rent arrears due by the Respondents. The Applicant has already obtained an order for payment in the sum of £10,366.03 and there has been no successful enforcement of that order. The total rent arrears now due by the Respondents is £15,750. The Applicant’s letting agent has tried to contact the Respondents, but they have failed to engage. At the outset of the tenancy, the First Respondent had employment income, and it is not known if the Second Respondent had any income. There

is no information available to suggest that the Respondents are entitled to benefits. The Respondents live in the Property with their 4 year old daughter.

Findings in Fact

7. The Applicant is the proprietor of the Property at 109 Cedar Drive, East Kilbride, Glasgow, South Lanarkshire, G75 9HZ.
8. The parties entered into a private residential tenancy which commenced 5 July 2019.
9. The Applicant's representative served Notice to Leave on the Respondents by sheriff officer on 16 December 2024.
10. The Applicant intends to market the Property for sale within 3 months of the Respondents ceasing to occupy it.

Reason for Decision

11. The Tribunal took into account the application and supporting papers and the submissions made at the CMD. The Tribunal was satisfied that it could reach a decision on the application without a hearing under Rule 18 of the Rules and make relevant findings in fact based on the information provided by the Applicant. The Tribunal did not identify any issues to be resolved in this case that would require a hearing to be fixed.
12. The Tribunal considered the fact that the application breached the requirements of section 54 of the 2016 Act in respect that the application was submitted before the expiry of the period of notice. The Tribunal exercised its discretion and allowed the application to be entertained on the basis that it was reasonable to do so in the particular circumstances of this case. In exercising discretion, the Tribunal relied heavily on the fact that the Respondents had been given notice of the Applicant's intentions in October 2023, and they also had notice that the Applicant had applied to the Tribunal on the strength of that notice. The NTL which supports the present application expired in March 2025 and today is the first substantive consideration of this application by the Tribunal. There is no prejudice to the Respondents by the Tribunal's decision to entertain the application today.
13. Having considered the application and supporting papers, the Tribunal accepted that the Respondent had been given a notice to leave which complied with the provisions of sections 52, 54 and 60 of the 2016 Act. The Tribunal therefore went on to consider whether ground 1 had been met in this case.
14. The Applicant is the registered proprietor and is entitled to sell the Property. The Applicant has instructed an estate agent to market the Property for sale. Information was provided about the Applicant's decision to sell the Property. The Tribunal was satisfied that the ground for eviction was established.

15. The Tribunal considered whether it was reasonable to grant the order for eviction. The Applicant's decision to sell was influenced by the level of rent arrears due by the Respondents. The Respondents have not engaged with the Applicant, nor have they participated in these proceedings. The level of rent arrears has continued to increase notwithstanding the order for payment granted by the Tribunal. There is no information available as to why the Respondents are not meeting their primary obligation to pay rent. They are either choosing not to pay rent, or they cannot afford to pay rent. The tenancy therefore appears to be unsustainable. Taking account of these factors, the Tribunal found that it was reasonable to grant the order for eviction.

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.

Nicola Irvine

15 July 2025

Legal Member/Chair

Date