

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 (“the Act”)

Chamber Ref: FTS/HPC/EV/24/4694

Re: Property at 2 Chapelhill Place, Ellon, Aberdeenshire, AB41 9WD (“the Property”)

Parties:

Mr Steven Ord, 3 Smiddy Lane, Ellon, Aberdeenshire, AB41 9ZB (“the Applicant”)

Ms Kimberley Roy, Mr Graeme McLardy, 2 Chapelhill Place, Ellon, Aberdeenshire, AB41 9WD (“the Respondents”)

Tribunal Members:

Ms H Forbes (Legal Member) and Ms S Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted.

Background

1. This is a Rule 109 application dated 10th October 2024. The Applicant is seeking an eviction order under Ground 1 of schedule 3 to the Act. The Applicant lodged a copy of a private residential tenancy agreement between the parties commencing on 11th July 2020, a notice to leave with evidence of service, section 11 notice with evidence of service, and evidence of intention to sell.
2. Notification of the application and Case Management Discussion was made upon the Respondents by Sheriff Officer on 1st April 2025.

The Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by telephone conference on 2 July 2025. All parties were in attendance. Mrs Ord was in attendance as a supporter for the Applicant.

The Applicant's position

4. The Applicant is seeking an eviction order to allow him to sell the Property. The Applicant wishes to retire and move overseas. The Applicant said there are arrears of rent in the sum of £4716, and that the Respondents have not paid rent since January 2025. The rent was previously paid directly to the Applicant, but that is no longer the case. There is a mortgage on the Property and the failure of the Respondents to pay rent is causing the Applicant financial and emotional stress.
5. Responding to questions from the Tribunal, the Applicant said he had not contacted the DWP regarding direct payments of the housing element of the Respondents' benefit payment, as he wanted to wait for the outcome of this CMD. The Applicant said he had not issued any letters regarding the arrears, but there had been messages sent.
6. The Applicant said they had issued a notice to leave a year ago, and had given the Respondents three months' notice despite legally only having to give 28 days' notice. The Applicant accepted, when informed by the Tribunal, that 84 days' notice is required for Ground 1 applications.
7. The Applicant has seven other properties to let. He will be selling all the properties and wished to sell this property first as work will be required to the Property before he can sell it.

The Respondents' position

8. Ms Roy said the Respondents are not opposed to an order being granted, but they wish to request a delay in the execution of the order. The Respondents are both physically disabled. They have a child of eleven, who has recently faced emotional difficulties due to a traumatic incident, and requires support. They are keen to keep their child in the same school currently attended.
9. The Respondents have been in regular contact with social and private housing providers. They require a more suitable ground-floor property without stairs. They have been offered two properties, but Occupational Therapy deemed the properties unsuitable. Ms Roy said the Respondents require a more appropriate space in which to live. They also wish to leave because they accept that the Applicant wishes to sell the Property.
10. Ms Roy said she was unaware of the level of rent arrears, although she accepted last month's rent had not been paid. There had been a changeover to Universal Credit which meant direct payments were not made to the Applicant. The Respondents had been advised by their work coach not to reinstate the direct payments, if they were likely to leave the Property soon. Ms Roy said the Respondents would pay the arrears.
11. The Tribunal adjourned to consider its decision.

Findings in Fact and Law

12.

- (i) Parties entered into a private residential tenancy in respect of the Property which commenced on 11th July 2020.
- (ii) Notice to leave has been served upon the Respondents.
- (iii) The Applicant intends to sell the Property.
- (iv) The Applicant is entitled to sell the Property.
- (v) The Applicant intends to sell the Property or at least put it up for sale within three months of the Respondent ceasing to occupy the Property.
- (vi) It is reasonable to grant an eviction order.

Reasons for Decision

- 13. Ground 1 of Schedule 3 of the Act provides that it is an eviction ground if the Landlord intends to sell the let property. The Tribunal may find that the ground is met if the landlord is entitled to sell the let property, intends to sell it for market value, or at least put it up for sale, within three months of the tenant ceasing to occupy it, and the Tribunal is satisfied that it is reasonable on account of those facts to issue an eviction order. The Tribunal is satisfied that ground 1 is met.
- 14. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
- 15. The Applicant seeks to sell the Property in order to retire and move abroad.
- 16. The Respondents are physically disabled. They require more suitable housing, and are not opposing the order, as they wish to secure social housing that will suit their needs.
- 17. In these circumstances, and, particularly, taking into account the fact that the Property is not entirely suitable for the Respondents, the Tribunal considered it was reasonable to grant an order.
- 18. The Tribunal considered the submissions of both parties regarding the matter of allowing a further period for execution of the eviction order, beyond the usual 30 day period. The Tribunal took into account that the Applicant served notice on the Respondents a year ago, and he has had a long wait to get to this stage. The Tribunal took into account the allegation of considerable rent arrears, which appeared to be disputed. There seemed to have been a lack of communication in this regard, which may have exacerbated the problem. The Applicant is entitled to rent lawfully due, and requires said rent to cover the mortgage payments. The Respondents have indicated they are willing to rectify the

position. The Tribunal took into account the fact that the Respondents have been making significant efforts to secure alternative housing. The fact that they have been unable to do so is due to the lack of availability of suitable housing, and through no fault of their own. They are working closely with professionals and the authorities to obtain housing, and additional time may assist in securing suitable housing. The Respondents' child has suffered recent difficulties due to emotional trauma, and allowing additional time may assist in alleviating any difficulties experienced by the child. The Tribunal considered there was a compelling argument for allowing the Respondents additional time before which the eviction order could be executed. The Tribunal considered it was reasonable to delay execution for a period of three months from the date of the CMD.

Decision

19. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 2nd October 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.

H Forbes

Legal Member

2nd July 2025