



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/24/5028

Re: Property at 15 Ferry Gait Drive, Edinburgh, EH4 4GJ (“the Property”)

Parties:

Mr Michael McCarthy, 21 Circus Lane, Edinburgh, EH3 6SU (“the Applicant”)

Miss Michelle Logan, 15 Ferry Gait Drive, Edinburgh, EH4 4GJ (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction relying on ground 1 (landlord intends to sell) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The Tribunal determined that it was reasonable to suspend enforcement of the order for a period of 4 months from the date of the case management discussion.

Background

1. By application dated 1 November 2024, the applicant seeks an order for eviction on the ground that he intends to sell the property.
2. The applicant lodged the following documents with the application:
 - Short Assured Tenancy agreement
 - Form AT5
 - Section 33 notice with proof of service
 - Notice to quit with proof of service
 - Section 11 notice

3. The respondent's representative submitted written representations in advance of the cmd.

Case management discussion ("cmd") – 24 June 2025- teleconference

4. The applicant was represented by Mr MacAulay. The respondent was in attendance with her representative, Ms Bennet from CHAI (Community Help and Advice Initiative).
5. Mr MacAulay sought an order for eviction . He explained that the applicant is currently resident in Australia. He owns 3 properties in Scotland which he rents out. Mr MacAulay stated that due to the financial and administrative burden of managing the properties the applicant had decided to sell. Mr McAuley stated that the applicant was aware of the respondent's present situation and wanted to accommodate her requirement to find alternative accommodation as much as possible. In light of that the applicant would be minded to agree to an extended period before an order was enforced to allow the respondent time to find alternative accommodation.
6. Ms Bennet referred to the written submissions that had been submitted which set out the respondent's personal circumstances. The respondent had resided in the property since 2014. She resided with her 4 children aged 21, 20, 19 and 16. She was currently working and received universal credit. Ms Logan confirmed that she and her older children had been looking for alternative accommodation however there was a lack of affordable housing with sufficient space for the family. She stated that there were medical conditions within the household which presented a challenge in terms of making arrangements to move home.
7. After a brief adjournment, Ms Bennet proposed that the respondent would not oppose an order being granted if enforcement was suspended for an additional 3 months beyond the standard 30 days. Mr MacAulay consented to that.

Findings in fact and law

8. Parties entered into a short assured tenancy agreement with a commencement date of 24 November 2014.
9. A valid section 33 notice and notice to quit were served on the respondent terminating the tenancy at 25 October 2024.

10. The applicant is the owner of the property.
11. The applicant intends to sell the property.
12. The respondent has been actively seeking alternative accommodation.
13. The respondent resides with her 4 children.
14. The respondent does not oppose an order for eviction being granted.
15. The applicant consents to a suspension of enforcement of the eviction order until 24 October 2024.
16. It is reasonable to grant an order for eviction
17. It is reasonable to vary the date of enforcement of the eviction order until 24 October 2025.

Reasons for the decision

18. Ground 1 states:

(1) It is an eviction ground that the landlord intends to sell the let property.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph

(1) applies if the landlord—

(a) is entitled to sell the let property,

(b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

19. The Tribunal accepted the evidence that the applicant intended to sell the property. This was not disputed by the respondent.

20. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against
21. The Tribunal gave significant weight to the fact that the respondent did not oppose the order for eviction being granted provided there was an adequate period of time allowed for the respondent to make progress in finding alternative accommodation and that this was reflected in the date of the Order.
22. In relation to the respondent's request to vary the date of execution to allow a period of 4 months for her to find alternative accommodation the Tribunal determined that 4 months was a reasonable period to defer execution. The applicant consented to the requested suspension as he was aware of the respondent's personal circumstances and wished to accommodate her request for sufficient time to prepare and move her family from 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.

Mary-Claire Kelly

Legal Member/Chair

24 June 2025
Date
