



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/24/4707

Re: Property at 14 Buchan Green, East Kilbride, G74 3BJ (“the Property”)

Parties:

Mr Iain Mills, 41 Magnolia Drive, Cambuslang, Glasgow, G72 7NP (“the Applicant”)

Mr Craig Stamper, 14 Buchan Green, East Kilbride, G74 3BJ (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) had been met in this case and it would be reasonable to make an eviction order.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

Background

- 1** This is an application for an eviction order under Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 and section 51 of the 2016 Act. The Applicant relied upon ground 1 as the ground for possession, stating that he intended to sell the property.
- 2** The application was referred to a case management discussion (“CMD”) to take place by teleconference on 8 July 2025. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 8 April 2025. Both parties were invited to make written representations.

- 3 On 12 May 2025 the Tribunal received written representations from the Applicant. The Applicant provided evidence of rent arrears, including bank statements, correspondence between the Applicant's letting agent and the Respondent, and a rent statement.
- 4 On 8 June 2025 the Tribunal received written representations from the Respondent. The Respondent explained that he had not received a rent increase notice from the Applicant, as the Applicant had decided instead to sell the property. The Respondent had continued to pay the current rent whilst waiting for the Tribunal proceedings to conclude.

The CMD

- 5 The CMD took place on 8 July 2025 at 10am by teleconference. Both parties joined the call.
- 6 The Tribunal had the following documents before it:-
 - (i) Form E application form;
 - (ii) Title sheet LAN238758 confirming the Applicant's ownership of the property;
 - (iii) Excerpt from the online landlord register confirming the Applicant's landlord registration;
 - (iv) Private residential tenancy agreement between the parties;
 - (v) Notice to leave and proof of delivery to the Respondent by email;
 - (vi) Section 11 notice to South Lanarkshire Council and proof of delivery by email;
 - (vii) Email from AVJ Homes to the Applicant dated 29 November 2024 accepting instructions to sell the property;
 - (viii) The Applicant's written representations dated 12 May 2025; and
 - (ix) The Respondent's written representations dated 8 May 2025.
- 7 The Tribunal heard submissions from the parties. The following is a summary of the key elements of the submissions and not a verbatim account.
- 8 The Applicant confirmed his intention to sell the property. He had faced challenges over the past few years including an increase in mortgage rates and the measures brought in during the coronavirus pandemic. It was becoming harder and harder to make a profit. The Applicant had considered increasing the rent for the property but the Respondent had stated that he was unable to afford this. The Applicant explained that his mortgage payments had doubled which coupled with his own outgoings and the ongoing repair and maintenance costs for the property put him in a situation where he was going to end up making a loss. The Applicant now required to sell the property to recoup some of his losses and to put him in a better position financially. The Applicant had been off work last year due to ill health and had been in receipt of benefits. The Applicant explained that he had four rental properties. He had selected this

property to sell as it was the best option. It had been fully refurbished around 5 years ago and it offered the best return on his investment.

- 9 The Respondent explained that he had received a rent increase notice from the Applicant but the proposed rent was unaffordable. He had put forward a counter offer, but the Applicant had then advised that he intended on selling the property. The Respondent had no difficulty with the Applicant's plan to sell. He and his partner had applied to the council for rehousing and the council had just notified them that they had been offered a property, which they had accepted. The property required repairs and the council had given a provisional date of 17 July 2025 for these to be completed. As soon as the Respondent received the keys for their council house, he and his partner would move out of the property. The Respondent explained that the council had advised them to stay in the property until the Tribunal granted an eviction order.
- 10 The Tribunal adjourned the CMD to deliberate, at which point parties left the call, before resuming the CMD and confirming the outcome.

Findings in fact

- 11 The Applicant is the landlord, and the Respondent is the tenant, of the property in terms of a tenancy agreement which commenced on 13 June 2019.
- 12 The tenancy between the parties is a private residential tenancy as defined by section 1 of the 2016 Act.
- 13 On 17 June 2024 the Applicant sent a notice to leave to the Respondent by email. The notice to leave included ground 1 and stated that an application would not be made to the Tribunal any earlier than 12 September 2024.
- 14 The Respondent consented to the delivery of notices by email under clause 4 of the tenancy agreement between the parties.
- 15 On 14 October 2024 the Applicant sent a notice under section 11 of the Homelessness etc (Scotland) Act 2003 to South Lanarkshire Council.
- 16 The Applicant intends to sell the property. The Applicant has instructed AVJ Homes Let to proceed with the sale once vacant possession is secured.
- 17 The Applicant requires to sell the property in order to alleviate financial loss. The Applicant's mortgage payments for the property have doubled. The Applicant is in financial difficulty. The Applicant was off work last year due to ill health and claimed benefits during that time.
- 18 The Applicant has four rental properties. The sale of this property will provide the Applicant with the best return.
- 19 The Respondent has applied to the council for rehousing. The Respondent has been offered a council property, which he has accepted.

Reasons for decision

- 20** The Tribunal was satisfied it had sufficient information before it to make relevant findings in fact and reach a decision on the application having regard to the application paperwork and the submissions heard at the CMD. In terms of Rule 17(4) and Rule 18(1) of the Rules the Tribunal determined that it could make a decision at the CMD as there were no issues to be resolved that would require a hearing and the Tribunal was satisfied that to make a decision would not be contrary to the interests of the parties. It was clear that the substantive facts between the parties were not in dispute.
- 21** Based on the application paperwork the Tribunal was satisfied that the tenancy between the parties was a private residential tenancy, and that the Applicant had given the Respondent a notice to leave that complied with the provisions of the 2016 Act. The Tribunal was also satisfied that the Applicant had given the local authority notice under section 11 of the Homelessness etc (Scotland) Act 2003 of his intention to recover possession of the property. The Tribunal therefore considered whether ground 1 of schedule 3 of the 2016 Act had been met in this case.
- 22** The Tribunal considered the wording of ground 1:-
- “1 Landlord intends to sell*
(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, and
(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.”
- 23** The Tribunal was satisfied that the Applicant was entitled to sell the property as the heritable owner, and intended on doing so within three months of the Respondents vacating. He was open and frank in his submissions to the Tribunal at the CMD on this point, which were supported by the documents produced. The Tribunal therefore considered whether it was reasonable to make an eviction order on account of the facts in this case.

- 24** The Tribunal took into account the Applicant's property rights. As the registered owner of the property, the Applicant was entitled to dispose of the property as he saw fit. The Tribunal also took into account his reasons for selling the property. The Tribunal accepted that his financial situation had deteriorated due to a number of factors and that the sale of the property would assist in recouping his losses. These were all factors to which the Tribunal gave significant weight.
- 25** The Tribunal also gave significant weight to the fact that the council have now offered the Respondent a secure tenancy, which he has accepted. This gave the Tribunal assurance that the Respondent and his partner would have alternative accommodation in the event that the Tribunal granted an eviction order. The Respondent did not object to the order on that basis.
- 26** Accordingly, having weighed the above factors as relevant to the question of reasonableness, the Tribunal concluded that the balance weighed in favour of making an eviction order in this case.
- 27** The decision of the Tribunal was unanimous.

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.

Ruth O'Hare

8 July 2025

Legal Member/Chair

Date