



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 and Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules)

Ref: FTS/HPC/EV/24/4914

Re: Property at 18 Culzean Place, Kilwinning, KA13 6TH (the Property)

Parties:

Mrs Agnes Russell, 4 Carnoustie Court, Kilwinning, KA13 6NW (the Applicant)

Ms Helen McCrie, 18 Culzean Place, Kilwinning, KA13 6TH (the Respondent)

Tribunal Members:

Ms Susanne L. M. Tanner K.C. (Legal Member)

Mrs Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal):

(1) was satisfied that Ground 1 in Schedule 3, Part 1 to the 2016 Act was established by the Applicant, in that on the day the tribunal considered the application for an eviction on its merits: the Applicants as registered proprietors intend to sell the let Property for market value, or at least put it up for sale within three months of the Respondent ceasing to occupy it; and that it was reasonable to make an eviction order in the circumstances; and made an order for eviction in terms of Section 51 of the 2016 Act.

(2) The decision of the tribunal was unanimous

Statement of Reasons

Procedural Background

1. The Applicant made an application to the tribunal on 22 October 2024 in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules). The Applicant seeks the Respondent's eviction from the Property under Ground 1 of Schedule 3.
2. The Applicant provided the following documents with the Application:
 - 2.1. Copy Notice to Leave dated 25 July 2024 and proof of delivery dated 26 July 2024; and
 - 2.2. Copy section 11 Notice to the Local Authority with confirmation of delivery by email.
3. On 25 October 2024, the tribunal's administration obtained a copy of the Title deeds for the Property which shows that the Applicant has been the joint registered proprietor since 18 March 2016.
4. The tribunal's administration obtained a copy of the registered landlord details for the Property which shows that the Applicant is registered landlord.
5. The tribunal made a request for further information from the Applicant. The Applicant provided a letter from Welcome Homes Estate Agents dated 27 November 2024 and a copy of the Private Residential Tenancy Agreement dated 9 October 2018.
6. The Application was accepted for determination. The tribunal sent letters of notification dated 5 April 2025 to both parties with the date, time and arrangements for joining the Case Management Discussion ("CMD") teleconference in relation to the Application on 23 June 2025 at 1000h. The Application paperwork was personally served on the Respondent by Sheriff Officers on 9 April 2025. The Respondent was told that if she wished to submit written representations these should be sent to the tribunal by 26 April 2025.
7. The Respondent did not submit any written representations to the tribunal or make any contact with the tribunal.

CMD: 23 June 2025, 1000h, Teleconference

8. The Applicant, Mrs Russell, joined the CMD.

9. The Respondent, Ms McCrie, did not attend or made any contact with the tribunal. The tribunal was satisfied that the Respondent was served with Application and notification of the CMD on 9 April 2025 by Sheriff Officers and that the requirements of rule 24(1) of the 2017 Rules regarding the giving of notice of a hearing had been duly complied with. The tribunal proceeded with the Application upon the representations of the party present and all the material before it.
10. The Applicant explained that she needed to sell the Property because her husband had passed away. The Applicant is in her seventies and she said that she cannot cope with the Property. This is her only rental property. The Applicant said that it is a year since she gave notice to the Respondent. The Applicant said that she wants to sell the Property once the Respondent has moved out. She has got in touch with the estate agent. The estate agent, Welcome Homes, told the Applicant that they need to get into the Property to value it and to do the Home Report.
11. The Applicant said that she has discussed the situation with the Respondent and that the Respondent told her that she was on the waiting list with the local authority. The Applicant also received a phone call from the local authority and they are aware of the situation. The Applicant said that Ms McCrie's son was living with her but that she is unsure if he still resides there as he is an adult and he works away from home. The Applicant said that the Respondent pays her rent. She gets Universal Credit and she pays the balance to top up to the full amount. The Applicant said that she was last in contact with the Respondent a couple of months ago. The Applicant told the Respondent that she was going on holiday and that her daughter would deal with any problems that arose while she was away. During that call the Respondent confirmed that she was aware that this meeting (CMD) was going ahead. The Applicant said that the Respondent does not have any disabilities or vulnerabilities that would need to be taken into account for re-housing.

12. The tribunal makes the following findings-in-fact:

- 12.1. The Applicants is one of the registered proprietors of the Property.
- 12.2. The other registered proprietor, who was the Applicant's husband, has passed away.
- 12.3. The Applicant wishes to sell the Property with vacant possession and realise the proceeds.
- 12.4. The Applicant is in her seventies and can no longer cope with the rental Property.

- 12.5. There is a private residential tenancy agreement between the Applicant and the Respondent for the Property which began on 9 October 2018.
- 12.6. On 26 July 2024, a Notice to Leave containing ground 1 of Schedule 3 to the 2016 Act was served on the Respondent.
- 12.7. The Applicant has given the Respondent at least 84 days' notice that she requires possession.
- 12.8. The Application to the tribunal was made on 22 October 2024.
- 12.9. The Applicant has instructed a sales agent in respect of sale of the Property with vacant possession.
- 12.10. The Applicant intends to sell the Property on the open market or at least market it for sale within three months of vacant possession.
- 12.11. The Respondent has not stated any defence to the Application.
- 12.12. There are no children under 16 residing in the Property.
- 12.13. The Respondent has contacted the local authority about re-housing.

13. Findings in fact and law

- 13.1. The tribunal is satisfied that the facts required in paragraph 1 of Schedule 3 to the 2016 Act have been established.
- 13.2. The tribunal is satisfied that it is reasonable to make an order for eviction.

Discussion

14. The order for eviction is sought in terms of Section 51 and paragraph 1 of Schedule 3 to the 2016 Act. The tribunal was satisfied that the requirements of those provisions have been met. The tribunal is satisfied that the Applicant intends to sell the Property or at least put it up for sale within three months of an eviction order.
15. In relation to reasonableness, reference is made to the tribunal's findings in fact. The Respondent has not opposed the Application or made any submissions about reasonableness of eviction. The tribunal was satisfied that it was reasonable to evict the Respondent in the circumstances of the case.

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.

23 June 2025

**Ms. Susanne L. M. Tanner K.C.
Legal Member/Chair**