

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/25/0048

Re: Property at 69C Viceroy Street, Kirkcaldy, KY2 5HU (“the Property”)

Parties:

Mr Warwick Bradley Smith, Mrs Nicola Jane Smith, Ballendrick Villa, Forgandenny Road, Bridge of Earn, PH2 9HD (“the Applicant”)

Mr Paul Bowman, 69C Viceroy Street, Kirkcaldy, KY2 5HU (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Eileen Shand (Ordinary Member)

Decision

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

Background

1. On 7th January 2025 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - i. Copy Private Residential Tenancy Agreement showing a commencement date of 27th October 2018 and a rent of £395 per month;
 - ii. Copy Notice to Leave dated 7th October 2024;
 - iii. Sheriff Officer Certificate of Citation for serving the Notice to Leave;
 - iv. Section 11 Notice and proof of service;
 - v. Letter from Lindsays solicitors dated 11th June 2024

3. The Application was served on the Respondents by Sheriff Officers on 4th March 2025.
4. On 23rd June 2025 the Applicant's solicitor lodged a Written Submission with the Tribunal regarding reasonableness and stating that the Applicant had offered to sell the property to the Respondent with a discount on the market value.
5. On 28th June 2025 the Respondent sent an email to the Tribunal denying that any offer had been made.

Case Management Discussion

6. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Mr Morton of Lindsays Solicitors. The Respondents dialled in and represented himself.
7. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
8. Mr Morton sought an order for eviction in terms of ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. He said that the Applicants wish to sell the property and intend to do so, or at least put it up for sale, within three months of the Respondent vacating. He said that the Applicants wish to get out of the rental market due to the way that it is going.
9. The Respondent said that he know that he will have to vacate the property but he has been told that his homeless application cannot be dealt with until the Tribunal process is complete. At the moment as a single man he has no points as there is no eviction order in place. He has put in applications to housing associations. The property is a one bedroom flat and it has not been adapted for disability or special needs. He had looked at the private sector, but current rents are around double what he is currently paying and he cannot afford it. He is continuing to pay his rent to the Applicants.

Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing on 27th October 2018 and with a rent of £395 per month;

- b. A Notice To Leave, dated 7th October 2024, was served timeously and correctly;
- c. A section 11 notice was served on the local authority;
- d. The Application was served on the Respondent by Sheriff Officer on 7th April 2025;
- e. The Applicants are the owners and are entitled to sell the let property;
- f. The Applicants intend to sell the let property for market value, or at least put it up for sale, within 3 months of the Respondents ceasing to occupy it;
- g. The Applicants wish to exit the rental market;
- h. The Respondent lives alone in the property.

Reasons for Decision

10. Ground 1 of Schedule 3 of the Act states as follows:

1(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.

11. The Tribunal is satisfied from the application, and the oral submissions of Mr Morton, that paragraph (2)(1)(a) and (b) have been met.

12. The Tribunal is also satisfied in terms of paragraph (2)(1)(c) that it is reasonable to grant the order. The Respondent is not opposed to it and has

applied for local authority housing. He has been told that they require an eviction order from the Tribunal to allow them to be rehoused.

13. In the circumstances the Tribunal consider that it is also be reasonable, given that the Respondent has continued to meet his obligations to the Applicants and that he now needs to notify the local authority of the Tribunal's decision before his homelessness application can be considered, to suspend extract of the order for a period of one month after the normal extract date, meaning that the order cannot be implemented before 7th September 2025, to give the Respondent a chance to get a copy of the Decision to the local authority, and for it to work its way through their system.

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.

07 July 2025

Legal Member/Chair

Date