

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/24/4617

Property : 17E Southesk Street, Brechin DD9 6EB (“Property”)

Parties:

James Mason, The Hedges, Jubilee Crescent, Newton of Falkland, Cupar KY15 7NQ (“Applicant”)

Shiells Law, 31A St David Street, Brechin DD9 6EG (“Applicant’s Representative”)

Alexander Smith, 17E Southesk Street, Brechin DD9 6EB (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to make an order for possession of the Property.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement which commenced on 29 August 2018; Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 1 July 2024 ("Notice to Leave"); Royal Mail proof of delivery on 2 July 2024; email from the Applicant stating his intention to sell the Property; terms of business issued by Shiells, Solicitors and Estate Agents regarding the sale of the Property; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003. A Case Management Discussion (“CMD”) was fixed for 8 July 2025. The Application was served on the Respondent by sheriff officer on 16 April 2025.

Case Management Discussion

A CMD took place before the Tribunal on 8 July 2025 by teleconference. The Applicant was represented by Frances Coutts of the Applicant's Representative. The Respondent was in attendance.

Mr Smith told the Tribunal that he does not oppose the application. He said that he had been in touch with Angus Council about alternative accommodation and they had told him they could not help further until an eviction order was granted. He told the Tribunal that he lives in the Property alone. He said that he is aged 24 and is not working. He said that he is in receipt of universal credit. He said that he has no physical illnesses or disabilities but does have issues with his mental health. He said that he has been classed as having limited ability to work since 2019 and that all of his rent is covered by universal credit. He said that the rent for the Property is £250 per month.

Mrs Coutts told the Tribunal that the Applicant wishes to sell the Property as he wishes to retire. She said the Property is the only one the Applicant has in Angus. She said that she believed he owns other properties which are also being sold but she did not know how many properties are in his portfolio.

The Tribunal asked Mr Smith if Angus Council had given any indication of timescales for identifying alternative accommodation. He said they had not given him a straight answer but had said that if he was on the point of being evicted they would ask the Applicant to be flexible and allow Mr Smith to remain in the Property for an agreed period. Mrs Coutts said she thought the Applicant would be flexible in that situation as long as the proposed extension was not for a lengthy period.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property which commenced on 29 August 2018.
2. A Notice to Leave was served on the Respondent by recorded delivery post on 2 July 2024. It stated that an application for an eviction order would not be submitted to the Tribunal before 26 September 2024.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
4. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

Reasons for the Decision

In terms of section 51 of the Act, the Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell the Property. The evidence lodged with the application of intention to sell was an email from the Applicant stating his intention to sell once vacant possession was obtained and terms of business issued by Shiells, Solicitors and Estate Agents regarding the sale of the Property. The ground for eviction was established.

The Tribunal considered the question of reasonableness as set out in the oral submissions from the Applicant's Representative and the Respondent. In all the circumstances, and in the absence of opposition by the Respondent, the Tribunal determined that it was reasonable to grant an order for possession of the Property.

Decision

The Tribunal determined to grant an order for possession of 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.

**Joan Devine
Legal Member**

Date : 8 July 2025