



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/24/3806

Re: Property at 41A Wallace Street, Stirling, FK8 1NU (“the Property”)

Parties:

Mrs Gaynor Crawford, The Granary, Tombrake Farm Steadings, Balfron, G63 0QR (“the Applicant”)

Miss Stroma Sutton, 41A Wallace Street, Stirling, FK8 1NU (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.

Background

1. By application dated 10 January 2025, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 1 of Schedule 3 to the 2016 Act, namely that the landlord intends to sell the Property.
2. The application was accompanied by copies of what purported to be a Short Assured Tenancy Agreement but which was in law a Private Residential Tenancy Agreement between the Parties, commencing on 7 December 2020 at a rent of £350 per month, a Notice to Leave dated 9 May 2024 advising the Respondent that an application to the Tribunal under Ground 1 would not be made before 31 July 2024, and a Terms of Business letter with fee quote from West Homes, Callander, dated 12 August 2024. The Terms of Business letter noted that the estate agents had been unable to get access to the Property due to the Respondent’s refusal to admit them.

3. On 13 September 2024, the Applicant emailed the Tribunal seeking permission to access the Property to carry out safety checks. She stated that the Respondent only rents one room in the Property but currently litters the entire premises with her belongings, creating unimaginable fire risks, blocking doors, exits and stairwells. The Tribunal signposted her to the relevant part of the Tribunal's website dealing with Rights of Access.
4. On 25 November 2024, the Applicant advised the Tribunal that the Respondent was refusing to allow access to her or to anyone else. As a result, she had been unable to renew the Gas Safety Certificate or deal with an issue with the smoke detectors. Her estate agents had been refused access on 12 August 2024, after the Notice to Leave expired and she was, therefore, unable to move forward with selling the Property as the Respondent was still there. The Applicant could no longer afford the mortgage payments.
5. On 11 January 2025 the Applicant told the Tribunal in an email that all she wants to do is to sell her property. She now found herself in a position of financial hardship affecting her mental health and her very young family. She was now struggling to cover the mortgage and found it hugely unfair that, having been a model landlord, but one who had arrived at a situation where she could no longer afford the Property, so needed to sell, she had not been allowed to for over a year.
6. On 4 June 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 25 June 2025. The Respondent requested and was granted an extension to that time limit and made written representations to the Tribunal on 11 July 2025.
7. The Respondent wished to make it clear that she does not owe any rent. She understood that the Applicant wants to sell the Property, but did not think it reasonable to evict her, as she has nowhere else to go. She is disabled and an eviction would badly affect her health and stability. She had missed out on housing offers because the Applicant had not replied when housing teams tried to confirm her current tenancy. The Applicant could sell the Property with her in it. Eviction was not necessary. The Applicant had entered the Property without the Respondent's permission, and the Respondent had contacted Police Scotland about the Applicant's behaviour. She emailed the Applicant on 25 November 2024 to ask for contact information for references for new potential landlords but never received a response.
8. On 22 July 2025, the Applicant responded to the Respondent's submissions. She stated that she has been basically locked out of her property and refused entry for over a year. She has been unable to allow an estate agent in to value the Property and unable to have the boiler and fire alarms serviced. She has no idea what state the property is in now, but the last time she saw it, it was completely wrecked, with every room strewn with the Respondent's clutter. The Applicant understood that the Respondent had contacted the police but that she had been told they do not get involved in such matters. The Respondent

changed the locks and only provided the Applicant with a key when instructed to do so by the police. The Applicant wished to draw the Tribunal's attention to the fact that the Respondent only rents one room in a 4-bedroom property. She has expressed how she is aiming to be deemed "homeless" but is able to pay £350 per month for her room rental. There are many properties in the Stirling area looking for a tenant to occupy a bedroom for the same if not less money per month. No person or property company had contacted the Applicant asking for a reference for the Respondent. The Respondent had contacted the Applicant directly asking for a written reference "to speed up" her departure, but the Applicant could never give a reference in good faith.

Case Management Discussion

9. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 30 July 2025. The Applicant and the Respondent were both present.
10. The Applicant told the Tribunal that she lived in the Property after she bought it and, when she moved out, initially to stay with her parents, she decided to rent it out. She limited the number of tenants to two, so that she did not require a HMO Licence. The accommodation rented to the Respondent is a bedroom with en-suite, located at the top of an internal spiral staircase, with right to use the communal parts of the Property, namely the living room and kitchen. The last tenant of the other bedroom that she rented out had left at the expiry of his Notice to Leave, served at the same time as the one served on the Respondent. On carrying out a check-out inspection with him, she had discovered that the Respondent had littered every room with her belongings. The mortgage is not in arrears, but holding on to the Property is no longer affordable for her. She lives at home with four children and cannot afford the upkeep of the Property. In addition, the Respondent has refused her access since she checked the Property on 5 August 2024, when the other tenant left. The Applicant does not own any other rental properties.
11. The Respondent told the Tribunal that she had been advised that the tenancy agreement she signed when she moved in was invalid, as it was called a Short Assured Tenancy. It also did not specify that her occupation was of only one bedroom, with shared common areas. Questioned by the Tribunal, however, she accepted that her understanding when she moved in was that she had exclusive use of a bedroom with en-suite and a right in common to use the living room and kitchen. She accepted that there had been a tenant of one of the other bedrooms when she moved in. The other tenant paid the Council Tax, but the Respondent reimbursed her one-half of that cost and of utilities bills. When the tenant moved out and another one moved in, the Council Tax and utilities were transferred into the name of the Respondent and the new tenant, in turn, refunded one-half of the payments that she made.
12. The Respondent said that she lives alone in the property. She has been looking for alternative accommodation and is not staying on out of stubbornness, but she has nowhere else to go. She has been told by the Homelessness Unit of Stirling Council that it might take up to three years for her to be rehoused. She

has made applications for Housing Support to the Councils in Stirling, Edinburgh and Glasgow. Her disability gives her a certain amount of priority but not a significant amount. She has been unable to find anything within her budget.

Reasons for Decision

13. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
14. Section 51 of the 2016 Act states that 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 to the 2016 Act applies.
15. Ground 1 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the landlord intends to sell the let property and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell and 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 the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts.
16. The Tribunal noted that the tenancy agreement was headed "Short Assured Tenancy" and that it did not specify that the subjects were one bedroom with shared facilities, but the fact that it could not be a Short Assured Tenancy did not make it an invalid lease and it was clear to the Tribunal that, when she moved in, the Respondent did not regard her tenancy as encompassing the entire flat. She acknowledged that there was already another tenant in the flat when her tenancy began and that the other tenant had subsequently been replaced.
17. The Tribunal was satisfied from the information provided in writing and at the Case Management Discussion and from the Terms of Business letter that the Applicant intends to sell the Property. Accordingly, the only matter for the Tribunal to decide was whether it would be reasonable to issue an Eviction Order. This is often a difficult exercise, and the Tribunal has to consider the present situation of both Parties and the impact that a decision to issue or not to issue an Eviction Order will have on both of them. The Tribunal then has to decide, on balance, the question of reasonableness.
18. The Tribunal accepted that the Applicant is looking to sell, as she can no longer afford the mortgage and repair and upkeep costs and that this is having an impact on her health. She stays at home to bring up her four young children, a very different situation from that which pertained when she moved out of the Property, initially to live with her parents, and decided to let it out. The Respondent lives on her own and is in contact with a social worker with a view

to being rehoused in the Stirling area. She will not be considered for rehousing in the absence of an Eviction Order. The Tribunal accepted that it might be a long wait for a permanent home to be offered to her, but in the meantime, the local authority has an obligation to provide her with temporary accommodation. Renting a room in another flat also remains an option open to her. The view of the Tribunal was that the present situation cannot continue. It is clear from the photographs provided by the Applicant that the Property is hugely cluttered and is a potential fire hazard and that the Applicant is being prevented from carrying out essential annual checks and servicing. Accordingly, having considered carefully all the evidence before it and having regard to the interests of both Parties, the Tribunal decided that it would be reasonable to issue an Eviction Order.

19. The Tribunal's decision 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.

George Clark

Legal Member/Chair

30 July 2025
Date