



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51(1) of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/24/4949

Re: Property at Flat 1/1, 3 Banchory Avenue, Glasgow, G43 1EX (“the Property”)

Parties:

MR MICHAEL ENGLISH, 1 Ewing Street, Kilbarchan, Johnstone, PA10 2JA (“the Applicant”)

Ms Patricia English, Flat 1/1, 3 Banchory Avenue, Glasgow, G43 1EX (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property.

Background

1. By application dated 28 October 2024 the Applicant’s representatives, McEwan Fraser Legal, Solicitors, Edinburgh applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant submitted a copy of a tenancy agreement, Notice to Leave with execution of service, Section 11 Notice, a Single Survey and Mortgage Valuation and an affidavit together with other documents in support of the application.
2. By Notice of Acceptance dated 13 February 2025 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 13 June 2025.

The Case Management Discussion

4. A CMD was held by teleconference on 5 August 2025. The Applicant did not attend but was represented by Ms Rosaleen Doyle from the Applicant's representatives. The Respondent did not attend nor was she represented. The Tribunal being satisfied that proper intimation of the CMD had been given to the Respondent determined to proceed in her absence.
5. The Tribunal noted from the documents submitted with the application that the parties commenced a Private Residential tenancy of the property on 14 August 2023 although the Respondent had lived in the property for about sixteen years and also noted that the Respondent was the sister of the Applicant. Ms Doyle advised the Tribunal that she had been advised by the Applicant that the Respondent did not oppose the granting of the order and that she had been looking for alternative private lets without success and had also contacted Glasgow City Council for accommodation but had been told they would not assist unless and until an eviction order was granted.
6. The Tribunal also noted that the Respondent had been served with a Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act on 15 July 2024 and that a Section 11 Notice had been sent to Glasgow City Council by email on 24 October 2024 and that the Applicant's representatives had also submitted correspondence from Connells Survey and Valuations Ltd in support of the application together with an affidavit from the Applicant.
7. Ms Doyle advised the Tribunal that the Applicant's mortgage payments for the property had increased to £446.00 per month or £5352.00 per year and in addition he had to pay Factors fees of £1000.00 per year plus other costs including gas safety checks and landlords insurance. Ms Doyle said that the rental income received for the year amounted to £6599.00 and that the Applicant was now no longer breaking even from the income from the property.
8. Ms Doyle confirmed that the Respondent lived in the property with her two sons one of whom was still attending school. Ms Doyle also said that it was the Applicant's intention to provide what assistance he could to the Respondent to help her move to other accommodation.

Findings in Fact

9. The Respondent commenced a Private Residential Tenancy of the property on 14 August 2023 having previously lived in the property under a verbal agreement for about sixteen years.
10. A Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act was served on the Respondent on 15 July 2024.
11. A Section 11 Notice was sent to Glasgow City Council on 24 October 2024.
12. The Applicant has instructed Allan & Harris Estate Agents, Glasgow, to market the property for sale and they had instructed Connells Survey and Valuations to prepare a Single Survey and Mortgage Valuation Report.
13. The Applicant's mortgage payments have increased to £446.00 per month and after payment of factors fees and other outgoings the Applicant is not making any profit from renting the property.
14. The Applicant is currently living in rented accommodation and wishes to sell the property in order to purchase a property to live in himself.
15. The Respondent lives in the property with her adult son and her teenage son.
16. The Respondent has looked for private rental accommodation without success.
17. The Respondent has been told that she will not receive any priority to be rehoused by Glasgow City Council unless and until an order for her eviction is granted.

Reasons for Decision

18. The Tribunal was satisfied from the documents submitted and the oral submissions of Ms Doyle that the parties entered into a Private Residential tenancy that commenced on 14 August 2023 although the Respondent had lived in the property for about sixteen years previously under a verbal agreement with the Applicant who is her brother. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 1 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to Glasgow City Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced and the Applicant's oral

submissions that he intends to use Allan & Harris to market the property for sale

19. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that the Respondent had indicated to the Applicant that she did not intend to oppose the application and despite being given an opportunity to submit written representations and to attend the CMD had chosen to do neither. The Tribunal had to balance the needs of the Applicant with the needs of the Respondent in arriving at a decision. On the one hand there was the Applicant who wished to sell the property in order to raise capital to allow him to move out of rented accommodation and purchase a property for himself to live in. In addition, the Applicant was not making any profit from renting the property and indeed was after taking account of all outgoings running at a small loss... On the other hand, the Tribunal also had to take account of the needs of the Respondent who had to care for her teenage son and who also had her adult son living with her. The Tribunal also took into account the fact that the Respondent had been told that she would only be given priority for housing if an order for eviction was granted. The Tribunal also acknowledged that the Applicant had indicated that he would try to provide the Respondent with some assistance in moving to another property.
20. After carefully considering the circumstances of both parties the Tribunal was persuaded that the needs of the Applicant in this application were such that although there would undoubtedly be an adverse impact on the Respondent and her sons it was reasonable to grant the order and that having granted an order for eviction, she would receive some priority for rehousing given that she has her teenage son living with her.

Decision

21. The Tribunal being satisfied it has sufficient information before it to allow it to make a decision without the need for a hearing finds the Applicant entitled to an order for the eviction of the Respondent from 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.

**Mr G.Harding
Legal Member/Chair**

**5 August 2025
Date**