

Housing and Property Chamber
First-tier Tribunal for Scotland



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/24/1915

Property : 80 Findowrie Street, Dundee DD4 9NN (“Property”)

Parties:

Claire Gray and Chris Gray, 4 Liff Park, Dundee DD2 5PH (“Applicant”)

MML Law, Meadowplace Building, Bell Street, Dundee DD1 1EJ (“Applicant’s Representative”)

Caroline Balfour, 80 Findowrie Street, Dundee DD4 9NN (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Eileen Shand (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

1. The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement which commenced on 28 November 2022; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 11 January 2024 ("Notice to Leave"); post office proof of delivery on 12 January 2024; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 25 April 2024; copy quotation from the Applicant’s Representative regarding the sale of the Property dated 4 January 2024; and sheriff officer's execution of service certifying service of the Application on 11 December 2024. On 3 February 2025 the Applicant lodged a written submission.

Case Management Discussion

2. A case management discussion (“CMD”) took place before the Tribunal on 4 February 2025. Reference is made to the Note of the CMD. The outcome of the

CMD was that an evidential hearing was fixed for 8 August 2025 regarding the question of reasonableness and a direction was issued to the Parties.

3. On 25 July 2025 the Applicant's Representative lodged an inventory of productions with documents numbered 1 to 14. On 5 August 2025 the Applicant's Representative lodged further productions numbered 15 to 17.

Hearing on 8 August 2025

4. A Hearing took place on 8 August 2025 by Webex. The Applicants were in attendance and were represented by Darren Bell of The Applicant's Representative. The Respondent was also in attendance.
5. The Tribunal noted that whether or not the ground for eviction had been established did not seem to be in dispute. The Tribunal confirmed that the Parties agreed that : the tenancy commenced on 28 November 2022; a notice to leave was served on 12 January 2024; the Applicant holds title to the Property; the Applicant intends to sell the Property within 3 months of obtaining an order for possession in order to fund their children's education; the Respondent lives in the Property with 3 children aged 12, 15 and 17. The Tribunal asked the Applicant if they own any other rental properties in the UK. They said they did not.
6. The Tribunal asked Mrs Balfour if there was any update regarding her attempts to obtain alternative accommodation. Mrs Balfour told the Tribunal that she needs a 4 bedroom house and the local authority process was such that the properties she refused last year are no longer relevant. She said that in the last few weeks her daughter had received a formal diagnosis and her medical notes are now being assessed by the local authority. She said that the diagnosis would mean that "medical" points would be added to her housing application. She said that if an eviction order was granted she would be classed as "gold". Mrs Balfour said that she wanted the Tribunal to grant an order for eviction as that would assist her housing application. She said that she did not oppose the grant of an eviction order and she wanted the Applicant to get their property back.

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 28 November 2022.

2. A Notice to Leave was served on the Respondent by recorded delivery post on 12 January 2024. It stated that an application for an eviction order would not be submitted to the Tribunal before 10 April 2024.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 25 April 2024.
4. The Applicant holds title to the Property and is entitled to sell the Property.
5. 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

7. 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 a copy quotation from the Applicant's Representative regarding the sale of the Property dated 4 January 2024. Further evidence was lodged as the Tribunal process progressed which indicated the Applicant wished to sell the Property in order to fund their children's education in the United States. The Respondent did not dispute that the ground for eviction had been established. The Tribunal determined that the ground for eviction had been established.
8. At the Hearing, the Respondent did not oppose the grant of an eviction order. She told the Tribunal that an order was required to assist her housing application. In the circumstances the Tribunal determined that it was reasonable to grant an order for possession of the Property.

Decision

9. 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 August 2025