



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 17(4) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) in respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the Rules

Chamber Ref: FTS/HPC/EV/24/3548

Re: Property at 6, Ashley Street, Bonnybridge, FK4 1NL (“the Property”)

Parties:

Mr. Gary Steven residing at 18, Cathkin Crescent, Cumbernauld G68 0FB (“the Applicant”)

Mr. Don Sherlock residing at 6, Ashley Street, Bonnybridge, FK4 1NL (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory ground being established and the

statutory procedure having been carried out, it is reasonable to grant the Order sought and so the Tribunal granted the Order.

Background

1. By application received between 2 August 2024 and 9 December 2024 (“the Application”), the Applicant’s then representative on his behalf applied to the Tribunal for an Order for eviction and possession of the Property based on Ground 1 of Schedule 3 to the 2016 Act, the landlord intends to sell the let property.
2. The Application comprised the following:
 - i) copy unsigned private residential tenancy agreement between the Parties showing a monthly rent of £600.00;
 - ii) copy valid Notice to Leave in terms of Ground 1 of Schedule 3 to the 2016 Act with sufficient proof of issue to the Respondent
 - iii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Falkirk Council being the relevant local authority;
 - iv) copy letter from Ritehome, estate agents, evidencing an intention to sell and
 - v) copy text messages between the Parties showing that the Respondent intends to vacate the Property when offered alternative accommodation by the local authority.
3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the “CMD”) was fixed for 27 June 2025 at 10.00 by telephone conference. The CMD was intimated to both Parties, and, in particular, was intimated to the Respondent, by Sheriff Officer service on 3 April 2025.

CMD

4. The CMD took place on 27 June 2025 at 10.00 by telephone. The Applicant, Mr. Steven, was present and accompanied by Ms. C. Campbell as a supporter in terms of Rule 11 of the Rules. The Respondent was not present and was

not represented. He did not submit any written representations. The Respondent, having been served by Sheriff Officer, was aware that he was required to attend the CMD. The Tribunal, therefore, proceeded in his absence on the basis that there was no formal opposition to the Application.

5. The Tribunal explained to Mr. Steven that it had to be satisfied that the statutory procedure had been carried out properly, that the ground for the Order was evidenced and that it was reasonable on those facts to grant the Order. The Tribunal advised that, on the face of it, the Tribunal was satisfied in respect of the statutory procedure and Ground 1, but required further information in respect of the circumstances of the Parties to determine if it was reasonable to grant the Order.
6. The Tribunal asked Mr. Steven to provide background information. Mr. Steven explained that he has a very good relationship with the Respondent, Mr. Sherlock. He explained that he required to sell the Property for personal reasons as he simply is no longer able to act as a landlord. Mr. Steven explained that he is sixty-two years old and cares for his eighty-seven year old mother who has dementia. Both he and his mother reside in Cumbernauld and, as the Property is in Bonnybridge, he does not have the time to manage it properly. He explained that he relies on Ms. Campbell to assist and it is becoming unfair on her. Mr. Steven explained further that he has another rental property in Cumbernauld which has decreased in value by £20,000.00 and, as the mortgage on it is interest only, he cannot afford to sell that property without raising capital on the sale of the Property. He confirmed that he has a mortgage on the Property which will require to be redeemed on sale and stated that he must apply annually to the current lender for permission to lease the Property. He stated that he is concerned that permission might not be granted and that he could be in breach of the mortgage conditions.
7. With regard to the Respondent, Mr. Sherlock, Mr Steven stated that Mr. Sherlock has been an exemplary tenant throughout the six year tenancy. Mr. Steven advised that Mr. Sherlock has a twelve-year old daughter who will be

going into second year at high school. As far as he is aware, Mr. Sherlock is keen to move to the Cumbernauld area to be near to family support for his daughter. Mr. Steven stated that he understood that Mr. Sherlock has been studying social work and may now be looking for employment in that subject. Mr. Steven did not know exactly what attempts Mr. Sherlock had made to secure alternative accommodation but stated that he was aware Mr. Sherlock has made enquiries with the local authority and is on a general waiting list. Mr. Steven understood that Mr. Sherlock will not be advanced on that list until an eviction Order is granted and that he has been advised by the local authority to “sit tight”.

8. In response to the Tribunal's enquiry, Mr. Steven stated that, if an Order were granted, he would not object to a longer period for the Order to come into force to allow Mr. Sherlock time to secure accommodation.

Issue for the Tribunal

9. The Application not being opposed, the issue for the Tribunal was whether or not it should grant an Order for eviction in terms of Ground 1 of Schedule 3 to the Act as set out in the Application.

Findings in Fact

10. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a private residential tenancy of the Property between the Parties commencing on or around 5 November 2019;
 - ii) A valid Notice to Leave was issued by the Applicant to the Respondent;
 - iii) The Applicant has evidenced an intention to sell the Property;
 - iv) For personal reasons, the Applicant no longer wishes to act as a landlord;
 - v) The Applicant requires to sell the Property to release the funds to allow him to sell his other rental property;
 - vi) The Respondent remains residing in the Property with his twelve-year old daughter;

- vii) The Respondent wishes to remove from the Property to be nearer to family;
- viii) The Respondent cannot vacate the Property until he secures suitable alternative accommodation;
- ix) The Respondent is on a local authority housing waiting list;
- x) The Respondent has been advised by the local authority that he is unlikely to secure alternative accommodation unless an Order is granted.

Decision and Reasons for Decision

11. The Tribunal had regard to all the information before it and to its Findings in Fact.
12. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal “*may do anything at a case management discussionincluding making a decision*” . The Tribunal took the view that it had sufficient information to make a decision and so proceeded to determine the Application.
13. The statutory ground and procedure being established, and the Application not being opposed, the issue for the Tribunal was to determine if it is reasonable to grant the Order.
14. The Tribunal then had regard to the circumstances of the Parties.
15. The Tribunal must establish, consider and properly weigh the “whole of the circumstances in which the application made” (Barclay v Hannah 1947 S.C. 245 at 249 per Lord Moncrieff) when deciding whether it is reasonable to grant an order for possession.
16. The Tribunal then looked to balance the rights and interests of both parties.

17. The Tribunal found the Applicant, Mr. Steven to be honest and open and found that he explained the background circumstances to the Application without exaggeration. The Tribunal accepted that Mr. Steven has pressing family and financial needs and that he requires to sell the Property to alleviate his personal circumstances. The Tribunal accepted that Mr. Steven no longer wishes to be a landlord. The Tribunal noted that Mr. Steven is agreeable to an Order being suspended to allow a further time for Mr. Sherlock to secure accommodation.

18. The Tribunal accepted, on the balance of probability, that the Respondent, Mr. Sherlock, wished to remove from the Property for his own personal and family reasons but could not do so and his family remain residing in the Property. The Tribunal, from its own professional knowledge had regard to the statutory position that, if the Respondent and his daughter were evicted and made homeless, they would have protection in terms of Part II of the Housing (Scotland) Act 1987 and so would be able to access advice and assistance on homelessness.

19. Accordingly, the Tribunal took the view that continuing the tenancy was not tenable or in the interests of either Party, and so, was satisfied that it is reasonable to issue an eviction order. In the particular circumstances, the Tribunal stayed the Order until 27 August 2025 to allow for the Respondent to secure alternative accommodation.

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.

27 June 2025.

Right of Appeal

Karen Moore

Legal Member/Chair