

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/24/5542

Property : 18 School Road, Sandford, South Lanarkshire ML10 6BF (“Property”)

Parties:

Alison Shepherd, 34 School Road, Sandford ML10 6BF (“Applicant”)

The Property Store EK Ltd, 6 Hunter Street, East Kilbride G74 4LZ (“Applicant’s Representative”)

Christopher Nellist and June Allen, 18 School Road, Sandford, South Lanarkshire ML10 6BF (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to make an order for possession of the Property but to delay enforcement of the Order until 25 November 2025.

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 19 May 2018; Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 2 September 2024 ("Notice to Leave"); sheriff officer certificate of service of the Notice to Leave on 4 September 2024; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email and sole selling rights agreement with Cruive Estate Agents dated 9 January 2025. A Case Management Discussion (“CMD”) was fixed for 29 July 2025. The Application was served on the Respondent by sheriff officer on 29 April 2025. On 16 May 2025 the Respondent sought a postponement of the CMD for two reasons. Firstly, Mr Nellist said that he was a beneficiary on his late father’s estate and planned to use the inheritance to buy a house. Secondly, Mr Nellist said that the Respondent were in

touch with the local authority regarding alternative accommodation and that they had been awarded maximum points. The Respondent provided a copy of a letter from South Lanarkshire Homefinder dated 1 October 2024 which stated that the Property is unsuitable for the Respondent's medical needs.

Case Management Discussion ("CMD")

A CMD took place before the Tribunal on 29 July 2025 by teleconference. The Applicant was represented by Anne Kelly of the Applicant's Representative. Mr Nellist of the Respondent was in attendance.

Mr Nellist told the Tribunal that probate had now been granted on his late father's estate. He said that his late father's former home would now be marketed and sold. He said he had met with the local authority the previous week and they are to call him today for an update. Mr Nellist told the Tribunal that he is studying to be a nurse and starts his final 15 weeks of training next week. He said that he has an offer of employment in Lanarkshire and will start work mid-November at which point he would be able to apply for a mortgage to assist with buying a property. He said that depending on how much he inherited from his late father's estate his preference would be to buy a property.

Mr Nellist told the Tribunal that he and his wife have a number of health issues. He said that his wife has a severe social disorder which means she cannot be around other people including family. He said this meant living in a flat was not an option as she would be housebound. He said that a house in a rural location was required. Mr Nellist told the Tribunal that he has severe PTSD and CPD from multiple sources including his childhood and service in the military. He said that the Respondent need two bedrooms as he has severe night terrors which mean he can be violent in his sleep. He said he also has COPD and asthma. He said the local authority agreed that the Respondent require a house rather than a flat. He said that a rural location would suit the Respondent best. He said the local authority would not start the process of finding the Respondent a new property until 2 months before the threatened eviction. He said that they had therefore started the process a few weeks ago. He said that his son is an adult and does not live in the Property. He said that he and his wife are both 55 years old. Mr Nellist said that he does not dispute that the Applicant wishes to sell the Property but he asked the Tribunal to give the Respondent more time to allow him to finish his training and take up his employment. He said that would also give the local authority more time to identify alternative accommodation.

Ms Kelly told the Tribunal that the Applicant has owned the property since 2002 and lived there until 2011. The Applicant then tried to sell the Property without success so she let it out. She said the Applicant is now retired and wants to get her affairs in order. She said that the Applicant is a single person and does not own any other rental

properties. The Tribunal asked Ms Kelly what the impact on the Applicant would be if any order for eviction was delayed for a period. She said that would depend on the length of the delay.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant entered into the Tenancy Agreement with the Respondent for the Property which commenced on 19 May 2018.
2. A Notice to Leave was served on the Respondent by sheriff officer on 4 September 2024. It stated that an application for an eviction order would not be submitted to the Tribunal before 30 November 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.

Findings in Fact and Law

1. It is reasonable to grant an order for eviction but to delay enforcement until 25 November 2025.

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 a sole selling rights agreement with Cruive Estate Agents dated 9 January 2025. Mr Nellist did not dispute that the ground for eviction had been established.

The Tribunal considered the question of reasonableness. Mr Nellist had explained his own and his wife's medical conditions which meant that a particular type of property is required to meet their needs. He had explained that in the coming months he may be in a position to obtain a mortgage and purchase a property for the Respondent to live in. He had also explained that the local authority are now taking steps to help the Respondent identify alternative accommodation, but more time was required. Ms Kelly told the Tribunal that the Applicant is retired and wishes to "get her affairs in order". There was no suggestion that the Applicant was suffering financial hardship which was

aggravated by the Property not being sold. In all the circumstances, the Tribunal determined that it was reasonable to grant an order for possession of the Property but to delay enforcement until 25 November 2025.

Decision

The Tribunal determined to grant an order for possession of the Property but to delay enforcement of the Order until 25 November 2025.

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

**Joan Devine
Legal Member**

Date : 29 July 2025