

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/24/0396

Property : 1 Dalcross Way, Plains, Airdrie ML6 7EG (“Property”)

Parties:

Stephen Broadley, The Cairn, Crosshill Street, Airdrie ML6 9DA (“Applicant”)

Marilyn Kent, SBC Properties, PO Box 8794, Railway Road, Airdrie ML6 1DA (“Applicant’s Representative”)

Michelle Hamill, 1 Dalcross Way, Plains, Airdrie ML6 7EG (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Gordon Laurie (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 until 11 December 2025.

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 4 October 2021; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 19 October 2023 ("Notice to Leave"); copy email to the Respondent dated 20 October 2023 attaching the Notice to Leave; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 14 November 2023; copy letters from the Royal Bank of Scotland dated 22 August 2023 and 8 March 2024 regarding the expiry of the loan over the Property and three other properties on 12 November 2022. In the letters the Bank noted that the loan expired on 12 November 2022 and that immediate payment of the outstanding sum was required. The letters also stated that the loans were structured on an “all monies” basis which meant that all loan

facilities and securities are linked on a cross collateralised structure and not on an individual, one mortgage per property, structure.

2. A case management discussion (“CMD”) took place before the Tribunal on 14 August 2024. Reference is made to the note of the CMD. The outcome was that a continued CMD was fixed for 10 December 2024 and the Tribunal issued a Direction in the following terms :

The Applicant is required to provide further financial information to assist the Tribunal to determine whether or not the application should be granted. Such information should include:

1. *Details of the secured loan on the Property including current monthly repayments (if any) and the date on which full repayment was due.*
2. *A summary setting out details of all other properties owned by the Applicant showing (a) the address of the property; (b) the outstanding loan over the property and current monthly repayments; and (c) the estimated market value of the property.*
3. *A summary setting out the status of all properties owned by the Applicant showing (a) whether the property is currently being marketed; (b) whether the property is being marketed with a tenant in place or with vacant possession; and (c) whether the property has been removed from the market and is now in a sales process.*

*Such information **might include:***

4. *The employment status of the Applicant and whether employed, self-employed or unemployed.*
5. *Net monthly income of the Applicant including rental income, state benefits and any other income.*
6. *Other assets of the Applicant:*
 - a. *Amount of savings held by the Applicant.*
 - b. *Value of shares/investments held by the Applicant.*
 - c. *Any other assets owned by the Applicant.*
7. *Evidence from a third party/parties to support the Applicant’s position that the order should be granted to relieve the Applicant’s financial hardship. Such evidence might be:*
 - a. *A letter of advice from an approved money advisor or local authority debt advice service.*
 - b. *A letter from an independent financial advisor.*
 - c. *A letter from a chartered accountant.*

- d. A letter from a person or organisation the Applicant intends to rely on to advance the position that the application for the order should be granted.*
8. *It is for the Applicant to provide evidence that the order for eviction should be granted. It is likely that, in considering the Application, the Tribunal will have regard to the whole financial circumstances of the Applicant including any other household income. The Applicant should take this into account when responding to the Direction.*
3. The Applicant's Representative lodged a response to the Direction on 23 October 2024 which included a letter from the Applicant's accountant, Curle & Co, a letter from the Royal Bank of Scotland dated 30 August 2024 which referred to the loan over the Property being in default, a spreadsheet providing details of 24 properties owned by the Applicant and a written representation from the Applicant.
4. The Tribunal also had sight of letters from the Royal Bank which referred to loans over 15 properties owned by the Applicant all of which had expired on various dates in 2022 and 2023. In the letters the Bank noted that immediate payment of the outstanding sum was required and that the loans were structured on an "all monies" basis which meant that all loan facilities and securities are linked on a cross collateralised structure and not on an individual, one mortgage per property, structure.

Continued CMD on 12 February 2025

5. A continued CMD was fixed for 10 December 2024 by teleconference. On the morning of the CMD it was apparent that notification of the date of the continued CMD had not been delivered to the Respondent. A fresh CMD was fixed for 12 February 2025. Reference is made to the Note of the continued CMD. The outcome was that a further continued CMD was fixed for 11 September 2025.

Continued CMD on 11 September 2025

6. On 31 July 2025 the Applicant's Representative lodged a copy of the schedule regarding the sale of the Property and told the Tribunal that the Property had been marketed since 18 February 2025 with the Respondent in place as tenant. The Applicant's Representative also lodged correspondence dated 7 March 2025 from the Royal Bank regarding default on 15 loans made by the Bank to the Applicant and documentation from Future Property Auctions which indicated the Applicant had 11 properties "live" and 8 sold with Future Property Auctions.

7. At the continued CMD the Applicant's Representative was in attendance as was the Respondent. Mrs Kent told the Tribunal that the Property had been marketed with the Respondent in place as tenant since February 2025. She said that the Respondent had co-operated with viewings taking place. She said there had been 3 parties interested but that no acceptable offers had been received.
8. Ms Hamill told the Tribunal that her son is now carrying out an apprenticeship. She said that she finds the rent for the Property very high. She said that she had been in touch with the local authority about alternative accommodation but they had said they could not do anything to help her until an eviction order was granted. She said she had looked at other private rented properties but the rents were too high for her to afford. She said she appreciated that the notice to leave was served in October 2023 and she wanted to move forward and not have the uncertainty of this application. She said she understood that the Applicant required to repay sums due to the Bank and that he had to sell properties owned by him in order to do that. She said that if an order was granted but enforcement was delayed she believed the local authority would then step in to assist her and the delay in enforcement would provide time for alternative accommodation to be identified.
9. Mrs Kent told the Tribunal that the Bank are putting pressure on the applicant on a weekly basis. She said the grant of an eviction order would show the Bank that matters were moving forward.

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 4 October 2021.
2. A Notice to Leave was served on the Respondent by email on 20 October 2023. It stated that an application for an eviction order would not be submitted to the Tribunal before 15 January 2024.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 14 November 2023.
4. The Applicant holds title to the Property and is entitled to sell the Property in order to alleviate financial hardship.
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.

6. The Royal Bank of Scotland advanced a loan to Stephen and Elaine Broadley in relation to the purchase of 4 properties including the Property.
7. A letter from the Royal Bank of Scotland dated 7 March 2025 stated that the outstanding balance of £402,604.64 plus accrued interest was required to have been paid by 12 November 2022 and that failure to pay that amount was an event of default.
8. The Royal Bank of Scotland advanced loans to Stephen and Elaine Broadley in relation to the purchase of 15 additional properties. The loans expired on various dates in 2022 and 2023.

Reasons for the Decision

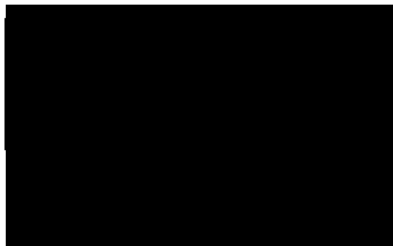
10. In terms of section 51 of the Act, the Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.
11. In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 1A which is that the landlord intends to sell to alleviate financial hardship. The evidence lodged with the application of intention to sell was copy letters from the Royal Bank of Scotland regarding the expiry of the loan over the Property and of loans over other properties owned by the Applicant. The Tribunal considered the evidence provided and determined that the ground for eviction had been established.
12. The Tribunal considered the question of reasonableness. The Application was lodged with the Tribunal on 18 January 2024. CMDs had been continued to allow the Applicant to market the Property with the Respondent in place as tenant. Since February 2025 the Respondent had co-operated with the marketing process. The Property had been listed for sale since February 2025 with no acceptable offers being received. The Respondent had come to the view that the local authority would not be able to provide assistance with alternative accommodation until such time as an eviction order was granted. The Tribunal determined that, in all the circumstances, it was reasonable to grant an order for eviction but to delay enforcement for an additional two months to allow the Respondent to liaise with the local authority regarding alternative accommodation.

Decision

13. The Tribunal determined to grant an order for possession of the Property but to delay enforcement until 11 December 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.



Date : 11 September 2025