

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 58 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/PR/24/2313

Re: Property at 3/2 48 Thornwood Drive, Glasgow, G11 7UG (“the Property”)

Parties:

Cathal Hurley, Damien Hurley, Matthew Leicester, 1/2 4 Gryffe Street, Glasgow, G44 4BD (“the Applicants”)

Bakhtyar Abdulla, Parween Mohammed, 31 Queen Mary Crescent, Glasgow, G81 2AD (“the Respondents”)

Tribunal Members:

Joel Conn (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) refused the application.

- 1) This was an application by the Applicants under rule 110 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”), for a wrongful termination order.
- 2) The wrongful termination order sought was £6,900, being six times the monthly rent of £1,150. Supporting papers were provided with the application including:
 - a) The lease (showing rent was £1,150/month);
 - b) The Notice to Leave dated 10 December 2023 setting out that the Respondents had sought to terminate the Tenancy so as to “sell the property asap... due to increased mortgage payments and health conditions” and that they “have tried to sell... with tenants but sadly the offers would not cover my mortgage”; and
 - c) A screenshot from Rightmove showing the Property marketed for rent (at a rent of £1,600/m) from 1 May 2024.

The Applicants stated that they voluntarily left on 11 February 2024, following the expiry of the Notice to Leave.

Procedural history

- 3) The matter initially called for a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 21 March 2025 at 14:00. All parties were in attendance. The first named Applicant, Cathal Hurley, provided the majority of the submissions for the Applicants. The Respondents’ son, Ranj Abdulla, represented them, and also acted as their informal interpreter throughout.
- 4) Reference is made to the Note of that CMD for fuller details. To summarise the Respondents’ position, they stated the reasons why the Property was placed on the market for re-letting in 1 May 2024, and why they did not sell. They explained that the Respondents originally sought to market the Property and further properties in Scotland as a portfolio so as to raise funds to cover the first named Respondent’s mother’s medical bills for treatment in Iraq (and likely treatment in a different country thereafter). The Respondents’ letting agents, Mitchells Sales & Letting, recommended a possible “portfolio sale” of the Property and two shops that the Respondents owned in Glasgow. The agent thereafter identified a purchaser. After the Applicants left, the sale process continued but eventually the sale fell through around April 2024. Around the same time, the first named Respondent’s received word that his mother’s diagnosis was now that of terminal cancer and that further significant treatment would not be of benefit to her. As there was no further requirement to raise funds for his mother’s treatment, and the portfolio sale having also fallen through, the Respondents did not put the Property back on the market for sale, but sought a new tenant. The Respondents accepted the Property was advertised at a higher rental price but that this was what Mitchells Sales & Letting advised them was the then-market rent.
- 5) The following points were agreed at the CMD by the Applicants:
 - a) Mrs Abdulla’s mother had received a diagnosis of cancer and thus a need to raise funds for her medical treatment arose.
 - b) That around April 2024 she received a terminal diagnosis, so there was no further need to raise funds for her treatment.
 - c) That she passed away due to cancer on 23 July 2024.
 - d) That the Property was first re-marketed for let on or around 1 May 2024.
- 6) In regard to those points that remained in dispute, the Applicants confirmed that these were restricted to whether or not the Respondents had intended to sell the Property and made an attempt to do so, and any evidence that the sale then fell through (all in the period around the Applicants vacating, up to when the Property was re-advertised for let on 1 May 2024).
- 7) The CMD was continued for further documentation to be provided by the Respondents, and any submissions by the parties further to this. (A Notice of Direction was issued to this end. Reference is further made to that Notice for its full details.) In particular, it was anticipated that the Respondents may lodge:
 - a) Documentation from Mitchells Sales & Letting to show the negotiation of the portfolio sale, and then it falling through.

- b) Documentation from a solicitor that the Respondents instructed in regard to the abortive sale.
- 8) Further to the Notice of Direction, on 18 April 2025 the Respondents lodged a number of documents and emails including:
- a) An updated advertisement by Mitchells Sales & Lettings appearing to market the Property and two other properties.
 - b) An email dated 18 October 2023 from the first named Respondent to Mitchells Sales & Lettings discussing his mother's ill-health and the need to terminate the Tenancy of the Applicants.
 - c) An email dated 19 October 2023 from Mitchells Sales & Lettings to the first named Respondent following up on discussions of a portfolio sale of three properties, including the Property.
 - d) Email correspondence between Mitchells Sales & Lettings and the first named Respondent between 26 October and 11 December 2023 on routine matters regarding the sale and the termination of the Tenancy with the Applicants.
 - e) An email dated 13 January 2024 from Mitchells Sales & Lettings to the first named Respondent advising of an offer to purchase the portfolio at a price of £260,000 with a date of entry of 25 April 2024.
 - f) An email dated 14 January 2024 from the first named Respondent to Mitchells Sales & Lettings accepting the offer.
 - g) An email dated 12 April 2024 from Mitchells Sales & Lettings to the first named Respondent noting that the sale has "fallen through" and asking him to "advise us of your thoughts and how you want to move forward".
 - h) An email dated 12 April 2024 from the first named Respondent to Mitchells Sales & Lettings saying "we are absolutely gutted about this" and that they will "need some time to digest this information". The email further said that the first named Respondent's mother's "long term prognosis is not great and I have been told that she will most likely pass in the next 1-2 months". The first named Respondent further noted that "the flat [ie the Property] has now been sitting vacant since Feb and financially I am loosing considerably" (*sic*).
 - i) An email dated 15 April 2024 from the first named Respondent to Mitchells Sales & Lettings saying that a decision has been made to re-let the Property and not market the other two properties any further. Reference was made to a need to carry out some refurbishment work at the Property and whether it was possible to "aim to market the property for let by the end of April".

It should be noted that no documentation was lodged from any solicitor acting for the Respondents.

- 9) In response to these documents, the Applicants provided further submissions and documents on 8 May 2025 noting that there was a lack of any documentation from a solicitor, and referring to a poor relationship with Mitchells Sales & Lettings (providing documents allegedly vouching same). This supplemented submissions made at the CMD when the Applicants made negative comments about their relationship with the letting agent that gave them cause to challenge the credibility of any documents that might be produced by way of evidence from the agent.

- 10) A continued CMD was assigned for 30 September 2025. In advance of this, a motion was made by the Respondents to discharge and reschedule the continued CMD due to the Respondents not being in the UK at the scheduled time and not returning until October. I refused this motion, given: the age of the application and a previous discharge (prior to the first CMD) for a similar reason, and that the Respondents had an opportunity to be represented by a lay representative or solicitor and/or provide final written submissions. No further submissions were received.

The Hearing

- 11) The matter called for a continued CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 30 September 2025 at 10:00. The Applicants were all in attendance but the first named Applicant, Cathal Hurley, again provided the submissions for them.
- 12) Despite the motion to discharge - which indicated that the Respondents would both be out of the UK at the date of the continued CMD - the first named Respondent appeared himself. He indicated, with faltering English, that the second named Respondent was in Iraq and repeated that they had “asked for a later appointment” so the second named Respondent could attend. He said on a number of occasions: “No English” and that it was “no good” (which I took to mean that it was unsatisfactory to him to have to conduct the CMD without his wife being present). No other family member attended as interpreter and no request had been made for an interpreter to be arranged, either at the original CMD or this one.
- 13) Aware of these issues, I sought clarification of the Applicants’ position in the application and on procedure. They repeated that they had expected documents to be lodged from the Respondents’ solicitor but that there had been none. They confirmed that, though they continued to rely on their submissions about the letting agents’ prior conduct, they did not dispute that the emails the Respondents had lodged were emails that had passed between the Respondents and Mitchells Sales & Lettings. In regard to further procedure, and whether there was a need for further evidence, the Applicants confirmed that they did not see the need for any. They confirmed that they were satisfied for a decision to be made at the continued CMD on the basis of the information already provided.
- 14) I sought similar submissions on the application and further procedure from the first named Respondent. He repeated that he had “no English”.
- 15) In the circumstances of the fulsome submissions lodged and a material discussion at the original CMD (at which the Respondents had the benefit of a family member translating), I was satisfied to consider the matter at the continued CMD.
- 16) No motion was made for expenses by either party.

Findings in Fact

- 17) On or about 26 May 2021 the Respondents let the Property as a Private Residential Tenancy to the Applicants under a lease with a commencement date of 26 May 2021 ("the Tenancy").
- 18) In or about Summer 2023, the first named Respondent's mother, who lived in Iraq, received a diagnosis of cancer and his family looked to him to raise funds for her medical treatment, which was expected to include travel to and treatment at a hospital in a different country.
- 19) At that time, the Respondents owned the Property and two other let properties (both commercial properties).
- 20) On 18 October 2023, the first named Respondent discussed with his letting agent, Mitchells Sales & Lettings, his mother's ill-health and the need to terminate the Tenancy of the Applicants so as to seek to sell the Property to raise funds.
- 21) On or around 19 October 2023 Mitchells Sales & Lettings suggested to the Respondents that they consider a portfolio sale of three properties, including the Property. The Respondents approved such steps and the said letting agents commenced marketing of the portfolio through October to December 2023.
- 22) During the period of marketing, the Respondents and the letting agents discussed the sale of the property portfolio with vacant possession of the Property (being the only residential property in the portfolio).
- 23) On or about 10 December 2023, the Respondents' agent drafted a Notice to Leave in correct form addressed to the Applicants, providing the Applicants with notice, amongst other matters, that the Respondents sought to terminate the Tenancy on the ground that "Your Landlord intends to live in the Let Property". The Notice advised that no order would be sought from the Tribunal prior to 6 February 2024. The Notice was validly and timeously intimated upon the Applicants.
- 24) On 13 January 2024 Mitchells Sales & Lettings advised the Respondents of an offer to purchase their portfolio at a price of £260,000 with a date of entry of 25 April 2024.
- 25) On 14 January 2024 the Respondents instructed Mitchells Sales & Lettings to accept the offer. Solicitors were instructed to advance the sale.
- 26) The Applicants voluntarily left the Property on 11 February 2024, subsequent to the expiry of the Notice to Leave.
- 27) In or around April 2024, the first named Respondent's mother received a terminal diagnosis, and a prognosis that she was likely to die within one to two

months. The Respondents were informed that further costly medical treatment, such as in a foreign hospital, would not improve this prognosis.

- 28) On 12 April 2024, Mitchells Sales & Lettings advised the Respondents that the sale had "fallen through" and sought instructions.
- 29) On 12 April 2024, the Respondents informed Mitchells Sales & Lettings that they were "absolutely gutted about this" news about the sale, but also updated them as to the poor prognosis for the first named Respondent's mother. The Respondents said they would consider their instructions and return to the agent, noting that "the flat [ie the Property] has now been sitting vacant since Feb and financially I am loosing considerably" (*sic*).
- 30) By email dated 15 April 2024, the Respondents informed Mitchells Sales & Lettings that their decision was that they would re-let the Property and not market the other two properties any further. The Respondents proposed some refurbishment work at the Property and enquired of the agents whether it was possible to "aim to market the property for let by the end of April".
- 31) The Property was first re-marketed for let on 1 May 2024.
- 32) The first named Respondent's mother passed away due to cancer on 23 July 2024.

Reasons for Decision

- 33) I was obliged to the Applicants and the Respondents agent for the detailed submissions provided at the CMD and further to the Notice of Direction. This allowed matters to proceed at the continued CMD despite the second named Respondent's absence and the first named Respondent's limited English. I was satisfied that sufficient evidence was provided by both parties to allow me to analyse the issues in full without a further hearing.
- 34) In regard to wrongful termination, the relevant provision is at section 58 of the 2016 Act:
 - (1) *This section applies where a private residential tenancy has been brought to an end in accordance with section 50 [that is, "Termination by notice to leave and tenant leaving"]*.
 - (2) *An application for a wrongful-termination order may be made to the First-tier Tribunal by a person who was immediately before the tenancy ended either the tenant or a joint tenant under the tenancy ("the former tenant").*
 - (3) *The Tribunal may make a wrongful-termination order if it finds that the former tenant was misled into ceasing to occupy the let property by the person who was the landlord under the tenancy immediately before it was brought to an end. ...*
- 35) I am satisfied that there was nothing that the Respondents did (nor was done on their behalf) that misled the Applicants into ceasing to occupy the Property. I was satisfied that the documents provided vouched the Respondents' position:

that they genuinely wished to sell the Property for a significant reason (to raise funds for a family member's medical treatment); that a sale was being negotiated both before and after the Applicants vacating the Property; that the sale subsequently fell through due to the seller not wishing to proceed; and by that point the Respondents' circumstances had genuinely altered (due to the need to raise funds being, sadly, no longer pressing; and the Respondents' only financial position suffering from the lack of rental income). I was satisfied that there was no evidence for the Respondents being misled into ceasing to occupy.

- 36) I have not analysed the basis for the Applicants' criticisms of Mitchells Sales & Letting. As the Applicants accepted that the emails lodged were emails that passed between the Respondents and their agents, I need not consider whether the agents were being inaccurate. The Respondents acted as they did on the information provided to them. In the event that Mitchells Sales & Letting's updates were inaccurate, it does not alter the Respondents' reasons for acting. (I should say that I saw nothing to suggest the updates were inaccurate.)
- 37) Further, I attribute no weight to the lack of evidence from any solicitors. The emails with Mitchells Sales & Letting are more than ample to vouch the Respondents' position and chronology.

Decision

- 38) In all the circumstances, I refuse the order for wrongful termination.

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.

Joel Conn

Legal Member/Chair

Date 30 September 2025