



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/24/5698

Re: Property at 76 Glebe Street, Hamilton, ML3 6UD (“the Property”)

Parties:

Westview Park Homes Ltd, PO Box 15712, Bathgate, West Lothian, EH48 9DP (“the Applicant”)

Mr David McClounnan, 76 Glebe Street, Hamilton, ML3 6UD (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Melanie Booth (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction relying on ground 1 (landlord intends to sell) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

1. By application dated 10 October 2024 the applicant seeks an order for eviction relying on ground 1 – landlord intends to sell in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016
2. The applicant submitted the following documents with the application:
 - Copy tenancy agreement
 - Notice to leave with proof of delivery
 - Estate agency letter of instruction
 - Copy correspondence with the respondent.
 - Section 11 notice
3. On 19 June 2025 the respondent submitted written representations.

4. A case management discussion took place via teleconference on 20 June 2025. The applicant was represented by Mr Todd, David Todd Sales and Lettings. The respondent, Mr McClounnan was in attendance.
5. The respondent opposed an order being granted. He disputed that the ground had been established and that it was reasonable to grant an order in light of his personal circumstances.
6. The Tribunal fixed an evidential hearing on the disputed issues.
7. The applicant submitted an updated rent account, documents relating to the mortgage over the property and a home report.
8. The respondent submitted medical notes and email and text correspondence with the applicant in advance of the hearing.

Hearing – teleconference- 3 December 2025

9. The applicant was represented by Mr Todd, David Todd Sales and Lettings. The respondent, Mr McClounnan was in attendance.
10. Mr Todd sought an order for eviction relying on ground 1. He referred to the documents that had been submitted. He stated that the applicant owned approximately 150 properties. The applicant had decided to sell a number of properties which were no longer profitable with the proceeds to be used towards ongoing increased business costs. Mr Todd stated that the property had a fixed rate mortgage which would shortly end resulting in a 2% increase in the level of interest payable. Mr Todd stated that his company had been instructed to market the property for sale in the event an order was obtained.
11. Mr Todd referred to the rent account that had been submitted which showed that there were currently rent arrears amounting to £6,350. Mr Todd stated that the respondent had been in receipt of Universal Credit Housing costs. Three payments of £450 had been received from the DWP since August 2025. Mr Todd stated that direct payment of benefits had ceased in October 2025. He stated that this may be due to the fact that the respondent had secured another tenancy. Mr Todd also stated that the respondent had twice contacted the tenancy deposit scheme which held the deposit to request the return of the deposit.

12. Mr Todd stated that the respondent had been difficult to deal with. The applicant had chosen not to attend the hearing due to the breakdown in relations with the respondent. Mr Todd stated that the lengthy eviction process had placed the applicant under a great deal of stress.
13. The respondent stated that since the case management discussion he had secured a permanent tenancy from South Lanarkshire Council. He stated that he had contacted the tenancy deposit scheme as he had moved out of the property. He stated that he received the keys to his new property on 01 October 2025, and moved in on 01 December 2025, however he had not terminated the tenancy and handed back his keys for the property as the applicant had told him they wanted to take the matter to court.
14. The respondent was asked about the level of arrears. He referred to mental health issues he had experienced but was unclear as to why the rent had not been paid. He stated that universal credit housing costs were now being paid at his new address. He stated that he still had personal possessions in the property and would move them out by 18 December 2025.

Findings in fact

15. Parties entered into a private residential tenancy agreement with a commencement date of 1 May 2021.
16. The applicant intends to sell the property.
17. The fixed rate mortgage over the property is due to expire.
18. There are substantial rent arrears due to the applicant.
19. The respondent no longer resides in the property as his principal home.
20. The respondent resides in a permanent local authority tenancy.
21. The respondent failed to terminate the tenancy agreement and return the keys when he obtained a new local authority tenancy.

Reasons for decision

1. Ground 1 in schedule 3 of the Private Housing (Tenancies) (Scotland) Act states:
(1) It is an eviction ground that the landlord intends to sell the let property.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—

(a) is entitled to sell the let property,

(b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

2. The Tribunal accepted the evidence provided that the applicant intended to sell the property.
3. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against
4. The Tribunal took into account the information provided by Mr Todd relating to the level of arrears and the impact of the ongoing tenancy on the applicant's financial and personal circumstances.
5. The Tribunal gave significant weight to the fact that the respondent did not oppose the order for eviction being granted and made no objection to the reasonableness of the order being granted.
6. The Tribunal took into account that the respondent had secured alternative accommodation which he was in the process of moving into. The Tribunal gave weight to the fact that the respondent continued to have personal possessions in the property and had not returned the keys.

7. Taking the foregoing circumstances into account the Tribunal determined that it was reasonable to grant an order.

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.

M-C Kelly

Legal Member/Chair

3 December 2025_____
Date