



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/24/4409

Re: Property at 12 Craigievar Square, Edinburgh, EH12 8YP (“the Property”)

Parties:

Mr Stuart McCormack, Calle Rosalia De Castro no 7, Benijofar, Alicante Area, 03178, Spain (“the Applicant”)

Ms Olasunbo Koljo, 12 Craigievar Square, Edinburgh, EH12 8YP (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Gerard Darroch (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. The Tribunal determined that it was reasonable to suspend enforcement of the order for a period of 3 months from the date of the hearing.

Background

1. By application dated 19 September 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
 - Email correspondence between the applicant and his representative
 - Section 11 notice

3. A case management discussion took place via teleconference on 24 June 2025. The respondent opposed the application on the grounds of reasonableness. The Tribunal fixed an evidential hearing to determine the application.

Hearing – 9 December 2025 – videoconference

4. The applicant was represented by Mr Leslie, Knight Bain Lettings. The respondent was represented by Ms Bennet, Community Help and Advice Initiative.
5. Prior to the hearing Ms Bennet had lodged written submissions, evidence of payments towards the rent account and a medical report for the respondent.
6. Mr Leslie had submitted a rent account up to June 2025, a letter from the applicant and a letter relating to a mortgage over the property.
7. Ms Bennet stated that the respondent did not seek to oppose an order for eviction being granted under ground 1. However, she sought an extended period before the order became enforceable in order that she has time to secure alternative accommodation from the local authority.
8. Mr Leslie opposed any suspension of enforcement of the order.
9. Ms Bennet stated that the respondent had resided in the property since 2016. She had made a payment of £4,000 towards the rent account in August. Further payments had been made of £1,500 in October and £2,700 in November 2025. Ms Bennet stated that the respondent would pay the full rent until the order was enforced. The respondent is not working and is in receipt of universal credit. Ms Bennet's written submissions referred to the shortage of available housing in Edinburgh. It was also stated that the respondent was in poor health and is currently under medical supervision for her mental health issues. In light of the respondent's personal circumstances and to allow time for her to remove from the property Ms Bennet sought a 3 month suspension before the order is enforced.
10. Mr Leslie stated that a notice to leave had been served in April 2024. The respondent had ample time to make arrangements to leave the property. Mr Leslie confirmed that the payments of £4,000 and £1,500 referred to by Ms Bennet had been received however he was unable to confirm receipt of a recent payment of £2,700. Mr Leslie stated that due to an increase in the mortgage

payment the applicant was financially impacted by the continuing lease. He stated that the applicant and his wife were in their mid-70s and sought to sell the property in order to repay the mortgage.

Findings in fact and law

11. The respondent has resided in the property since 2016.
12. Parties entered into a private rented tenancy agreement with a commencement date of 15 September 2023.
13. The applicant is the joint owner of the property with his wife, Moira McCormack.
14. The applicant intends to sell the property as part of his retirement planning.
15. The respondent is on the local authority waiting list for housing
16. The respondent has been actively seeking alternative accommodation with assistance from Community Housing Advice Initiative.
17. There is a shortage of affordable alternative accommodation in the local area.
18. The respondent has significant rent arrears in the property.
19. Rent arrears built up as the respondent required to cover the cost of travel to Nigeria for her mother's funeral. She was also unable to work for a period due to bereavement.
20. Since August 2025 the respondent has maintained payments towards her rent.
21. The respondent suffers from a number of medical conditions including mental health conditions.
22. It is reasonable to grant an order for eviction
23. It is reasonable to vary the date of enforcement of the eviction order until 9 December 2025.

Reasons for the decision

24. Ground 1 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.

25. The Tribunal accepted the evidence that the applicant intended to sell the property. This was not disputed by the respondent.
26. 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
27. 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.
28. In relation to the respondent's request to vary the date of execution to allow a period of 3 months for her to increase the period of time for her to secure alternative accommodation from the local authority the Tribunal determined that 3 months was a reasonable period to defer execution. The Tribunal gave weight to the fact that the respondent had been active in her search for accommodation and had sought advice. The Tribunal gave weight to the fact that the respondent had a number of medical conditions and was not defending the action. The Tribunal took into account that the notice to leave had been served in April 2024 and that the respondent had been aware of the applicant's intentions for some time. The Tribunal also gave weight to the rent arrears and the risk that arrears would continue to rise while the respondent resided in the property, however it

was noted that the respondent had recently been maintaining payments towards the rent. The Tribunal also took into account the information provided by Mr Leslie that the tenancy had a negative financial impact on the applicant. The Tribunal determined that taking the foregoing factors into account on balance 3 months was a reasonable period of time to allow the respondent to remove from the property.

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

9 December 2025
Date
