



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/24/5371

Re: Property at 3 Stewart Street, Portgordon, Morayshire, AB56 5QT ("the Property")

Parties:

Mr Peter Matheson, Venetian Marina, Nantwich, Cheshire, CW5 6DD ("the Applicant")

Mrs Maureen Burrows, Mr Jeremy Burrows, 2 Garden Lane, Portgordon, Morayshire, AG56 5SF ("the Respondents")

Tribunal Members:

Nicola Irvine (Legal Member) and Elaine Munroe (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") refused the application and determined that the Applicant was not misled into ceasing to occupy the Property.

Background

1. The Applicant submitted an application under Rule 110 of the Housing & Property Chamber Procedure Regulations 2017 ("the Rules") for a wrongful termination order.
2. A case management discussion ("CMD") took place on 15 July 2025. Following that CMD, the Tribunal issued a note setting out the disputed issue and also issued a notice of direction to the parties. The Tribunal assigned a hearing to take place on 16 December 2025 by Webex video call.

3. On 20 August 2025, the First Respondent advised the Tribunal that she intended to call her son to give evidence at the hearing. On 24 August 2025, the First Respondent submitted written representations.
4. On 3 September 2025, the Tribunal received further written representations from the Applicant.

The Hearing – 16 December 2025

5. The hearing took place by Webex video call. The Applicant joined the call from Morocco and represented himself. The Respondents joined the call from the UK, and the First Respondent represented both Respondents. The Applicant confirmed that he intended to give evidence and he consented to doing so from abroad. The First Respondent advised that she intended to give evidence and intended to call her son, Mr Jed Burrows to give evidence. The Tribunal explained that each party would be entitled to ask questions of the other party's witnesses and that the Tribunal may have some questions for the witnesses. The Tribunal explained that the evidence should be focussed on the issue before the Tribunal, namely, whether the Applicant was misled into ceasing to occupy the Property.
6. The evidence given by the parties and the Respondent's son is summarised below. The summary is not a verbatim account of what was said at the hearing but rather an outline of the matters relevant to the Tribunal's consideration of this application. At the conclusion of the evidence, the Tribunal adjourned the hearing to enable the members to consider the evidence given. The parties were advised that a written decision with a statement of reasons would be issued to them.

Summary of evidence

Mr Peter Matheson

7. He moved into the Property whilst the covid-19 restrictions were in place. He lived in the Property for 3 ½ years and was very happy living there. He had a good relationship with neighbours. As far as he was concerned, he would be living there indefinitely. The First Respondent told him that he could stay there forever. Although the parties dealt with the tenancy agreement between them at the outset of the tenancy, after a while the First Respondent wanted to make their arrangement more official and decided to appoint a letting agent to look after the property. He made the Property his home and he looked after the Property as if it was his own. He had a good relationship with the First Respondent. He was surprised when he received the notice to leave. He received the notice 'out of the blue' from the Respondents' letting agent. The communication between the parties petered out around 6 weeks before he received the notice to leave. The Respondents only live half a mile away from

the Property. It would have been easy for the Respondents to discuss matters with him. After he received the notice to leave, he realised that he would have to move on. He arranged to put all of his belongings into storage. He was effectively homeless. He left the Property about 10 days early because everything was in storage. He made several enquiries to try to find alternative accommodation which was not easy because he had 3 dogs. He lived in his caravan for a time. His then girlfriend lived in Buckinghamshire. That relationship was under stress and ultimately did not work out. He rented a log cabin and then moved on to a narrowboat in Cheshire. Earlier this year he decided to move to Morocco.

8. He got on well with the First Respondent. They were friends. He considers the serving of a notice to leave was unnecessary. He maintained contact with neighbours and discovered that the Respondents' son did not move into the Property. He believes he was misled about the reason the Respondents wanted him to leave. He was a good tenant and it was an unsavoury way to end the tenancy. Evidence has now emerged since he made his complaint that there was an issue with the Respondents' son and he was not made aware of the issue. He posed the question, why did the Respondent not contact him and offer to re-let the Property to him.

Maureen Burrows

9. She was contacted by friend who attends the same church as the Applicant. She asked if the Property was empty and if she could let the Property to the Applicant for 3-6 months. At that time, he had been living in a caravan. She agreed to let the Property to the Applicant and he moved in. She thought it was a temporary arrangement and whilst the parties entered into a tenancy agreement, the arrangement was relatively informal. The Respondents have never had issue with the Applicant as a tenant. Service of the notice to leave was no reflection on him as a tenant. The Respondents wanted their adult son to have independence and to live on his own. That was the reason the Respondents served the notice to leave and they relied on ground 5. She communicated well with the Applicant, but it was not a social relationship or friendship, but rather one of landlord and tenant. The parties were amicable. As time went on and the Applicant wanted to stay, the Respondents handed over the management of the tenancy to Cluny Estate Agents ("Cluny"). The Applicant was not keen on that, and she explained to him that she would not be responsible for the day to day running of the tenancy. When it became apparent that her son's condition was at stage where medical personnel suggested that he could try to live independently, the Property seemed an obvious choice for the Respondents to accommodate that. Their son suffers from poor mental health and had been living with the Respondents. He is a 34 year old man and the Respondents hoped that he would be able to live independently. She did not consider it appropriate to discuss her son's health condition with the Applicant. She is disappointed she has felt compelled to ask her son to give

evidence in these proceedings to explained why he ultimately could not move into the Property. She considers that she was fair and gave the Applicant 3 months' notice to leave the Property. The Applicant left 10 days earlier than he had to. If the Applicant had asked for a longer period before leaving the Property, she would have tried to accommodate that. During the period of the tenancy, she treated the Applicant fairly. At his request, she arranged to have the shed floored and she arranged repairs when required. The Applicant was a good tenant. She never said that he could stay forever. Had the Respondents not supported their son to try to live independently, the Applicant's tenancy would have continued. After the Applicant moved out, the Respondents cleaned the Property, cleaned the carpets and had some decoration carried out. Initially, the Respondents' son spent time during the day in the Property with a view to extending that time and staying there overnight. However, that did not come to pass, and the Respondents' son felt that he could not cope living in the Property alone. In total, the Property was empty for approximately 9 months and the Respondents tried to settle their son in the Property for 6 months. Eventually, they realised that it was not going to work. Given the passage of time, the Respondents did not think to try to contact the Applicant to find out if he wanted to move back. As far as the Respondents were aware, the Applicant had moved somewhere with his girlfriend. The Respondents re-let the Property after they realised that their son would be unable to live in the Property. The Property was let out for a period of 4 months and then the tenants moved out and the Respondents sold the Property.

Mr Jed Burrows

10. He is 34 years of age and has a history of suffering from poor mental health. The medical personnel treating him considered that his health was improving. They were pleased with his progress and considered that he may be able to live independently. He discussed this with the Respondents who were supportive of him. They agreed that he could live in the Property. After the Applicant moved out of the Property, he was supported and encouraged by his parents to move into the Property. He packed all of his belongings in preparation to move. Although he wanted to move in, he found it difficult and his mental health deteriorated. The planned move for him did not work out and that was to his detriment. He occasionally saw the Applicant when he was going cold water swimming, which was part of his therapy. He has seen the Applicant approximately 4 times. The Applicant was not a friend of his or the Respondents.

Submissions

The Applicant

11. The Applicant believes that he was asked to leave under false pretences and that the real reason was so that the Respondents could re-let the Property for

a higher rent. The Respondents' son did not live in the Property and the Property was empty for 9 months. The conditions of him leaving were not met because the Respondents' son did not move into the Property.

The Respondents

12. The Respondents' priority was their son. On the advice of those treating their son, they wanted to support him to live independently. This was the reason they served the Applicant with notice to leave. Their intention was to move their son into the Property. Ultimately, however, their son was unable to cope living independently. The Property was empty for a total of 9 months. Although when it was re-let, the rent was £50 per month more than the Applicant was paying, the Respondents would have been better off financially if the Applicant's tenancy had continued. The Respondents rejected the suggestion that they wanted the Applicant to leave so that they could re-let the Property.

Findings in Fact

13. The Respondents are the former landlords and heritable proprietors of the Property at 3 Stewart Street, Portgordon, Morayshire, AB56 5QT.
14. The Applicant was the tenant of the Property.
15. The parties entered into a private residential tenancy which commenced 1 February 2022.
16. The Respondents served a notice to leave on the Applicant on 6 July 2023.
17. The Applicant left the Property on 20 September 2023.
18. At the time the Notice to Leave was served, the Respondents' son intended to live in the Property as his permanent home.
19. The Applicant was not misled by the Respondents into ceasing to occupy the Property.

Reason for Decision

20. The Tribunal proceeded on the basis of the documents lodged, the oral evidence of the Applicant, First Respondent and the Respondents' son and the submissions made by both parties'. The Applicant submitted that he had been misled into ceasing to occupy the Property. The single issue for the Tribunal to decide was whether the Applicant had been so misled.
21. The Tribunal found the First Respondent and the Respondents' son to be credible and reliable witnesses. The Respondents lodged documentation which supported their evidence about the mental health history of the Respondents' son. The Tribunal believed that the Respondents' son intended to move into the

Property and to make that his permanent home. The Tribunal believed the First Respondent that the Respondents intended for their son to live independently in the Property. Although that ultimately did not come to pass, the critical factor in determining this application is whether the Applicant was misled. The Private Housing (Tenancies) (Scotland) Act 2016 ("the Act") sets out the ground of eviction which landlords can rely upon. Ground 5 states:

It is an eviction ground that a member of the landlord's family intends to live in the let property.

The Respondents' son is a qualifying family member and the Tribunal found that he intended to live in the Property. The Respondents served notice to leave on the Applicant on this basis.

22. Although the Applicant was clearly disappointed to have received the notice to leave and then to have left the Property, there was no evidence to support the contention that the Respondents served him with the notice to leave in order to re-let the Property. The evidence before the Tribunal was that the Property lay empty for 9 months.
23. The Tribunal considered section 58 (3) of the Act which states:

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.

On the basis that the Tribunal found that the Applicant had not been misled into ceasing to occupy the Property, the Tribunal refused the application for a wrongful termination 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.

Nicola Irvine

Legal Member/Chair

Date

16 December 2025