



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)
under Section 58 of the Private (Housing) (Tenancies) (Scotland) Act 2016 (“The Act”)**

Chamber Ref: FTS/HPC/PR/24/3243

Re: Property at 21 Thornhill Road, Hamilton, ML3 9PS (“the Property”)

Parties:

Mr Kieran McLean, 54 The Lairs, Kirkmuirhill, Lanark, ML11 9YW (“the Applicant”)

Mr Nagarajah Thirucumaran, 45 Altham Gardens, Watford, WD19 6HJ (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Mary Lyden (Ordinary Member)

Decision

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made a wrongful termination order in terms of Section 59 (2) (b) of the Act and ordered that the Respondent pay the Applicant the sum of £2,070.00.

Background

[2] The Applicant seeks an Order under Section 58 of the Act for a wrongful termination order under Section 59 of the Act. The Applicant alleges that he was misled by the Respondent into ending a tenancy and leaving the Property. The Respondent had served a Notice to Leave on the Applicant on the basis that the Respondent wished to sell the Property in terms of ground 1 of schedule 3 of the Act. The Applicant claims that the Respondent failed to follow through on this and then re-let the Property to a new tenant for a higher rent.

[3] The Application had called previously for a Case Management Discussion and case management orders were made regulating the production of evidence and progress of the Application.

[4] The Tribunal decided that the Application ought to proceed to a Hearing to take place in person for evidence and submissions to be heard before a final decision would be made by a full Tribunal. A hearing was then scheduled and adjourned as a result of the unexpected non-attendance of the Applicant.

The Hearing

[5] The Application then called for a Hearing in person in Glasgow Tribunals Centre at 10 am on 30 January 2026. The Applicant was personally present together with his solicitor, Mr Reid. The Respondent joined by video link on a large screen at the end of the Tribunal Hearing. The Hearing proceeded as a hybrid Hearing and there were no issues with the quality of the images or sounds and the technology worked without issue. The Tribunal made sure that everyone was familiar with the documentation submitted, had nothing further to add and was content to start the Hearing. The Tribunal then proceeded to hear evidence from each party in turn. After each party gave evidence, the other had the right to cross-examine. At the conclusion of evidence each party also had the opportunity to make closing submissions.

[6] The Tribunal comments on the evidence heard as follows.

The Applicant-Mr Kieran McLean.

[7] Mr McLean moved into the Property on 22 December 2021. He lived there without incident until he received a notice to leave from the Respondent on 22 December 2023. The notice expired on 18 April 2024. The Applicant received the notice to leave unexpectedly and started trying to make alternate living arrangements. He vacated the Property in April 2024 and accepted that it was perhaps on 18 April 2024 itself that he moved out. The Applicant moved back in with his parents while he considered his options. The Applicant had cause to look online for other rental properties. At that point, he noticed that the Property was being advertised for rent for £420.00 a month with effect from 11 July 2024.

[8] The Applicant explained that his rent at the end of the tenancy was £375.00 having increased from the initial sum of £350.00. These figures were not accepted by the Respondent who would later say confidently that the rent was only ever £345.00. The Applicant was adamant that the rent had increased during the tenancy although he accepted that he was unsure of the dates and was not in a position to point to any documentary evidence before the Tribunal that would confirm the position.

[9] The Property was managed by a letting agency- Blackwells. The Applicant phoned the proprietor of Blackwells- a Mr Lawrence Blackwell to find out what was happening. The Applicant stated that Mr Blackwell told him that Blackwells had stopped doing business with the Respondent because he was attempting to relet the Property after the Applicant vacated. Mr Blackwell said that the Applicant "*had a strong Tribunal case.*"

[10] The Applicant was convinced that he had been misled into ending his occupation of the Property by the Respondent.

Mr Nagarajah Thirucumaran,

[11] The Respondent was keen to emphasise that in the early part of January 2024, he had lost his job as an IT consultant. He had found out that this would be happening in December 2023. The Respondent was keen to emphasise that he wanted to sell the Property to solidify his finances ahead of a change in his employment status.

[12] However on questioning from the Tribunal, it became clear that the Respondent's thought processes were far from transparent. The Respondent accepted that he actually had no idea of the value of the Property until well after he had served the notice to leave. He made mention of having obtained valuations but none of these had been produced and all that the Respondent could keep coming back to was a generic email from Blackwells after the notice to leave had been served offering their services for the sale of the Property and making a very general observation regarding a likely price range. There was no other evidence before the Tribunal at all demonstrating even any basic attempt to sell the Property.

[13] It seemed hard to believe that the Respondent might commit to selling the Property in complete ignorance of the potential financial outcomes. The Tribunal put to the Respondent that this suggested that the Respondent had perhaps resolved to "*look into*" selling the Property rather than committing to selling. The Respondent accepted that this was indeed the truth and was a fair analysis of the situation. That being so, it seemed very hard to think that at the time the notice to leave was served and the Applicant had left the Property, the Respondent genuinely intended to sell the Property. He accepted clearly that at best he was going to look into it.

[14] The Respondent was keen to emphasise that after the Applicant vacated, the Property lay vacant for around three months. The Respondent suggested that it would not have made sense for the Respondent to mislead the Applicant into leaving the Property and then leave it unrented for three months for the sake of a very modest subsequent rental increase.

[15] There was however another aspect of the Respondent's evidence that was unsatisfactory. The Tribunal asked him if he owned any other properties. The Respondent explained that in addition to the Property in question, he owned one other

investment property. The Tribunal asked the Respondent why he had chosen to sell this Property rather than the other Property. It was here that the Respondent's evidence encountered a difficulty. He explained that he owned the other Property jointly with a relative with whom he had invested but that as he owned this Property outright, it was more straightforward to sell this Property.

[16] However the Tribunal had the benefit of considering the Land Certificate for this Property and could clearly see that this Property was also owned jointly with the same relative who was a joint owner of the other Property. When the Tribunal challenged the Respondent about that, he very quickly accepted that both properties were owned jointly with the relative. The reason for this contradiction was never explained and the Tribunal could not discount the fact that the Respondent was unaware that the Tribunal knew exactly who owned the Property and that the Respondent was misleading the Tribunal.

[17] The Respondent explained that he had then decided to rent the Property out with a different agency. He explained that the proprietor of Blackwells would have had a grudge against him due to the loss of his business. The Respondent appeared to state that he wanted to change agents because of issues regarding commission and management fees. However he also then appeared to accept that his new agent charged the same fee. The Respondent's account of why Lawrence Blackwell might have a grudge against him was unconvincing.

Analysis of the evidence

[18] The Tribunal found the Applicant's evidence to be credible and reliable. His situation largely spoke for itself.

[19] By contrast, the Respondent's evidence was harder to accept. The Respondent came across as an educated and rational man, which made it harder to accept that he might plan to sell a Property without having any idea of the likely financial outcomes. He also clearly accepted that when he served the notice to leave his intention was to look into selling the Property rather than to commit to selling it. The Respondent's position regarding the ownership of the Property also sat awkwardly with the idea that he was being honest and transparent.

[20] Having considered the evidence, the Tribunal made the following findings in fact.

Findings in Fact

1. *The Applicant rented the Property known as 21 Thornhill Road, Hamilton, ML3 9PS by virtue of a Private Residential Tenancy Agreement within the meaning of the Act which commenced on 22 December 2021.*

2. *The Respondent was the landlord under the terms of the tenancy which was managed by a letting agent, Blackwells, on his behalf.*
3. *Mr McLean moved into the Property on 22 December 2021. He lived there without incident until he received a notice to leave from the Respondent on 22 December 2023. The notice expired on 18 April 2024 and was in terms of ground 1 of the Act. The Applicant vacated the Property in April 2024.*
4. *The Applicant moved back in with his parents while he considered his options. The Applicant had cause to look online for other rental properties. In doing so, he noticed that the Property was readvertised for rent for £420.00 a month with effect from 11 July 2024.*
5. *The documented rent narrated on the tenancy agreement is £345.00 per month.*
6. *The Respondent had at no point fully decided to sell the Property and was minded to “look into” selling the Property when he served the notice to leave and when the Respondent left the Property.*
7. *The Respondent made no genuine effort to sell the Property and after a period of around three months when it was unoccupied, relet the Property again for the sum of £420.00 per month.*
8. *The Respondent misled the Applicant when he served a Notice to Leave upon him calling upon him to leave the Property because he intended to sell the Property.*

[21] Having made the above findings in fact, the Tribunal considered the precise wording of Ground 1 which is in the following terms.

Ground 1.

1(1) *It is an eviction ground that the landlord intends to sell the let property.*

(2) *The First-tier Tribunal [F1 may] find that the ground named by sub-paragraph (1) applies if the landlord —*

(a) is entitled to sell the let property, F2...

(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 [F3, 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*

[22] As is clear from the findings in fact made, the Tribunal could not conclude that the Respondent intended to sell the let Property or at least put it up for sale within 3 months of the tenant ceasing to occupy the let Property.

[23] Section 58 of the Act then requires the Tribunal to decide whether the Respondent 'mised' the Applicant into ceasing to occupy the Property. The Tribunal concludes that the Respondent did not have a genuine intention to sell the Property when he issued the notice to leave or when the Applicant vacated the Property.

[24] In that regard, the Respondent misled the Applicant when he completed and served the notice to leave. That being so, the Tribunal makes a Wrongful Termination Order in term of Section 59 of the Act. The Tribunal thereafter requires to consider the terms of what that order should be. Section 59 is in the following terms:

59 Wrongful-termination order

(1) In this section and in sections 57, 58 and 60, "a wrongful-termination order" means an order requiring the person who was the landlord under the tenancy immediately before it ended to pay the person who made the application for the wrongful-termination order an amount not exceeding six months' rent.

(2) Subsection (3) applies where—

(a) the First-tier Tribunal intends to make a wrongful-termination order under section 57 or 58, and

(b) two or more persons jointly were the landlord under the tenancy in question immediately before it was brought to an end.

(3) The Tribunal may make a wrongful-termination order—

(a) against all, some, or only one of the former joint landlords,

(b) stating that each person against whom the order is made is liable to pay a specified amount, but the cumulative total of each of the specified amounts must not exceed six months' rent,

(c) stating that each person against whom the order is made is jointly and severally liable for the whole amount to be paid.

(4) In subsections (1) and (3)(b), "rent" means—

(a) the amount that was payable in rent under the tenancy immediately before it ended, or

(b) in a case where two or more persons jointly were the tenant under the tenancy immediately before it ended, the amount mentioned in paragraph (a) divided by the number of persons who were at that time joint tenants under the tenancy.

[25] In making a wrongful termination order, the Tribunal may therefore order the Respondent to pay a specified sum no greater than equivalent to six months of rent. The Tribunal notes that there was a dispute about what the precise level of rent was at the end of the tenancy. The Tribunal therefore proceeded on the basis that the sum stated in the tenancy agreement itself, £345.00 was the only figure that could be relied upon. The Tribunal therefore determined that the maximum sum that could be awarded was £2,070.00 being a sum equivalent to six months' worth of £345.00.

[26] The Tribunal proceeded on the basis that the determination of the award required the Tribunal to exercise its judicial discretion to consider what would be fair, proportionate and just. In forming its approach to where this particular breach sat on the scale of sanctions open to the Tribunal, the Tribunal considered whether there were certain factors that weighed towards leniency and severity. The Tribunal considered that the Respondent had shown a cavalier attitude to the removal of the Applicant from the Property. No meaningful attempt at all was made to sell the Property and the Respondent hadn't even considered the potential price of the Property before allowing the Applicant to vacate. The Tribunal was also not impressed at the lack of transparency regarding the ownership of the Property. As noted above, the Tribunal was left wondering if the Respondent had made a blatant attempt to mislead the Tribunal.

[27] Those factors precluded an award at the lowest end of the scale. The Tribunal decided that there really was no mitigation at all before the Tribunal. The Respondent also clearly had the benefit of a letting agent to advise him about such matters and was not an uneducated or un-articulate man.

[28] The Tribunal considered that the sum to be awarded in terms of Regulation 10 ought to be a sum equal to six times the monthly rent of £345.00 being the sum of £2,070.00.

[29] The Tribunal therefore makes a wrongful termination order and orders that the Respondent pay the Applicant the sum of £2,070.00 in terms of Section 59 (2) (b) of the Act.

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.

Andrew McLaughlin

Legal Member/Chair

17 March 2026

Date