



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/5410

Re: Property at 0/2, 42 Sandaig Road, Glasgow, G33 4TF (“the Property”)

Parties:

Mr Brian Lynn, Mrs Jacqueline Lynn, 56 Briarcroft Drive, Glasgow, G33 1RE (“the Applicant”)

Miss Kara McGaughey, 0/2, 42 Sandaig Road, Glasgow, G33 4TF (“the Respondent”)

Tribunal Members:

Alastair Houston (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be made in terms of paragraph 1 of schedule 3 of the 2016 Act in favour of the Applicants.

1. Background

- 1.1 This is an application under rule 109 of the Chamber Rules whereby the Applicant seeks an eviction order on the basis of ground 1 of schedule 3 of the 2016 Act, namely, the Applicant intends to sell the property. The application was accompanied by copies of the written tenancy agreement between the parties, the notice to leave given to the tenant, notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 and an email confirming the instruction of solicitors in respect of a sale.
- 1.2 Written representations were lodged by the Respondent in advance of the Case Management Discussion. These were accompanied by copies of documentation relating to the Respondent’s children’s entitlement to disability benefits and a report by Professor Sharpe, architect, on the condition of the property. Further representations were lodged by the

Applicant's representative accompanied by a letter confirming instruction of estate agents in respect of the sale of the property.

2. The Case Management Discussion

2.1 The Case Management Discussion took place on 30 July 2026 by teleconference. The Applicant was represented by Ms Herd, solicitor. The Respondent was represented by Ms Simpson, solicitor.

2.2 Ms Herd confirmed that the application was insisted upon. The Applicant intended to sell the property as she no longer wished to be a landlord. She was suffering from anxiety and depression and the tenancy between the parties was causing her ongoing stress. She previously owned a portfolio of seven properties for let but had sold all but two. The property was the last remaining tenanted property with the other vacant and being readied for sale. The Applicant was unfit for work and her income comprised of Employment & Support Allowance and Adult Disability payment. Her husband had also given up work to care for her. Continuing as a landlord was causing further financial pressure. The rent received in respect of the property was £114.00 per week. Outlays included an interest only mortgage payable at £330.00 per month and factoring fees of £800.00 per annum. The Applicant was making a loss letting the property at present.

2.3 Ms Herd submitted that local authorities often required eviction orders to be granted before making decisions on tenants' homeless applications. The granting of the order would benefit both parties. The Applicant did not consent to the period of delay sought by the Respondent due to the prejudice caused by delaying the sale of the property.

2.4 Ms Simpson adopted the detailed representations lodged. Given the sensitive personal information contained, their contents need not be rehearsed in this decision. The Respondent did not take issue with the Applicant's intention to sell the property however, Ms Simpson highlighted the ability of the Applicant to increase the rent payable by the Respondent. The Respondent resided with four children. The property was unsuitable for the family due to a number of issues including outstanding repairing issues and it being overcrowded. Both the Respondent and two of her children received disability benefits in respect of the health conditions they suffered from. The family were reliant on welfare benefits and could not afford another property in the private sector. They required a three bedroom property.

2.5 The Respondent had made a homeless application to Glasgow City Council. This had initially been rejected by the local authority but had recently been accepted albeit a decision was awaited. Given the family's circumstances, the application had been made on the basis that it was no longer reasonable for them to occupy the property. Applications had been made to at least two local social housing providers. The Respondent and her family had no other accommodation available to them and, accordingly, the present application was opposed. Ms Simpson submitted that the

Tribunal ought to fix a hearing to allow for further medical evidence to be provided or a delay in enforcement of 12 months be allowed should the Tribunal be minded to grant an order.

2.6 Ms Simpson conceded that the Tribunal would be entitled to take each party's position at its highest when determining whether or not further procedure was required and, if not, whether it was reasonable to grant an eviction order, being the issue upon which the application turned. Ms Herd submitted that no further procedure was necessary. The factual circumstances underpinning the Respondent's position were accepted by the Applicant. Delaying a decision by fixing a hearing would further prejudice the Applicant.

3. Reasons For Decision

3.1 The Tribunal had noted that valid notice to leave had been given to the Respondent by the Applicant. The Applicant sought an eviction order on the basis of paragraph 1 of schedule 3 of the 2016 Act. Paragraph 3 is in the following terms:-

*1(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.*

In the present case, the Applicant had provided copies of correspondence with an estate agents regarding the sale of the property. The Respondent did not take issue with the Applicant's intention to sale. The Tribunal considered that the requirements of paragraph 1(2)(a) and (b) of schedule 3 of the 2016 Act were met and that no further evidence was required relating to this.

3.2 The Tribunal thereafter required to consider the issue of reasonableness and whether any further evidence and procedure were to required to enable a determination to be made. The Tribunal considered that this was not required. There was no factual dispute between the parties. Neither took issue with the circumstances relied upon by the other. Accordingly, the Tribunal considered that it could take each party's position at its highest and make a determination based on everything that was said at the Case

Management Discussion and contained with the parties' written representations.

3.3 The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah* 1947 SC 245 whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the application was made. The Tribunal considered the following factors to carry significant weight in determining it to be reasonable to grant an eviction order:-

- The Respondent had been attempting to apply to the local authority to be treated as homeless given her personal circumstances;
- The property was overcrowded and subject to some repairing issues;
- The Applicant had taken steps to dispose of her portfolio of properties given that she was unable to work as a result of ill health;
- The ongoing tenancy did not appear to be financially viable given the rental paid however, the Respondent's circumstances meant that market rents in the private sector were unaffordable;
- The Applicant and her husband had both given up work and the ongoing tenancy between the parties was contributing to the financial strain upon them;
- The local authority ought to owe duties to the Respondent under the Housing (Scotland) Act 1987 to assist them with rehousing.

Whilst Ms Simpson had requested further procedure to allow for further medical evidence to be produced, the Tribunal did not believe this to be necessary. The particular health conditions suffered by the Respondent and her children were not in dispute. Furthermore, whilst the children may be impacted by a move as a result of said conditions, the Respondent had been seeking a move from the property for some time and it appeared inevitable to the Tribunal that this would be required at some point. The Tribunal therefore considered this to carry little weight against granting an eviction order and, accordingly, it was reasonable to make the eviction order sought by the Applicant.

3.4 In the written representations lodged on behalf of the Respondent, it was submitted that the Tribunal ought to consider ordering a delay of twelve months in enforcement of any eviction order. Whilst the Tribunal considered a delay would be appropriate given the circumstances of the Respondent's family, twelve months would cause significant prejudice to the Applicant. The Tribunal considered that a delay of three months would be appropriate in the circumstances, to allow time for a decision to be made on the Respondent's homeless application and an opportunity for rehousing to be identified.

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.

Alastair Houston

Legal Member/Chair

Date 30 July 202