



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/PR/25/5503

Re: Property at 145 Airbles Street, Motherwell, ML1 1UH (“the Property”)

Parties:

MISS KARA PIRIE, MR JASON CHARTERIS, 15 CYPRESS AVENUE, UDDINGSTON, GLASGOW, G71 5HT (“the Applicant”)

JEEJAY PROPERTIES LIMITED, EMPIRE PROPERTY AND LETTINGS LIMITED, 2 STEWARTON STREET, WISHAW, ML2 8AN (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants were misled into ceasing to occupy the let property by the Respondent.

The Tribunal therefore determined to exercise its discretion under section 59(3) of the 2016 Act and made a wrongful termination order requiring the Respondent to pay the Applicants the sum of £2970.

Background

- 1 This is an application for a wrongful termination order under section 58 of the 2016 Act and rule 110 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicants sought a wrongful termination order against the Respondent, requesting payment in an amount not exceeding six months rent.
- 2 The application was accepted and referred to a tribunal for determination. A case management discussion (“CMD”) was assigned to take place by teleconference on 27 May 2026. The tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served

upon the Respondent by sheriff officers and required them to make written representations in response to the application no later than 15 May 2026.

- 3 No written representations were received from the Respondent.

The CMD

- 4 The CMD took place by teleconference on 27 May 2026 at 2pm. Miss Pirie joined the call. She advised that Mr Charteris was unable to attend. Both Applicants were represented by Mr James Melvin of Coatbridge Citizens Advice Bureau.
- 5 The Respondent did not join the call. The tribunal noted that they had been served with a copy of the case papers, including notice of the CMD and instructions for joining the teleconference. They had not provided any explanation for their failure to attend. The tribunal therefore delayed the start time of the CMD for a short period before determining to proceed in their absence.
- 6 The tribunal had before it the application together with supporting documents including the private residential tenancy agreement between the parties, notice to leave, screenshots of Empire Property's website, and written mandates from the Applicants authorising Mr Melvin to act as their representative.
- 7 The tribunal explained the purpose of the CMD and the legal test to be applied, including the four criteria set out by Sheriff Collins KC in the decision of *Reynolds v Henry 2024 UT 45*. The tribunal proceeded to discuss the application with Mr Melvin and Miss Pirie. The following is a summary of the key elements of the submissions.
- 8 Mr Melvin confirmed that the Applicants had received a notice to leave from the Respondent which included ground 1, stating their intention to sell the property. The Applicants had subsequently discovered the property had been re-advertised for let at an increased rent of £695 per month. The Applicants had been paying rent of £495 per month. The tenancy agreement originally provided for a rent of £450 per month but the ownership of the property had changed over the course of the tenancy. When the Respondent became the landlord, the rent was increased to £495 per month. Mr Melvin pointed out that the Respondent would have been unable to increase the rent by such a significant amount had the tenancy between the parties continued.
- 9 Miss Pirie confirmed that the Applicants had left the property around the beginning of July 2024, having asked for an extension to the notice to leave. They had kept an eye on the property as they were interested to see what it would sell for. They would have been interested in buying the property as they were settled there. The property was never marketed for sale. Around two months after the Applicants left the property, they discovered the property advertised for let at an increased rent. The Applicants believed the Respondent intended to sell the property when they received the notice to leave.

- 10 Miss Pirie explained that the Applicants were experiencing challenging circumstances at the time they received the notice to leave. If they had known the property would be re-let at a higher rent, they would have attempted to negotiate with the Respondent. It was a terrible time for them to re-locate and they did not want to go through that. Their sole reason for vacating the property was the notice to leave.
- 11 Miss Pirie advised that the Applicants had not thought to challenge the notice to leave at the time. They were focused on securing a new house. They had a dog and trying to rent another property would have proved difficult. They investigated purchasing their own property and were ultimately able to do so, albeit at significant cost. They did not want to cause any hassle to the Respondent.
- 12 The tribunal explained that if it was satisfied the criteria were met, it could consider making a wrongful termination order. The tribunal asked Mr Melvin for his submissions on what would be appropriate in the circumstances of this case.
- 13 Mr Melvin believed the Respondent's behaviour in this case was particularly egregious. The Respondent had sought to use the situation to avoid carrying out renovations to the bathroom following reports from the Applicants, and to make a substantial increase to the rent which the Respondent would not have been able to do if the tenancy had continued.
- 14 Miss Pirie spoke to the impact on the Applicants. She explained that there was a lot going on in their personal life at the time. They had additional costs to pay as a direct result of having to leave the property. There was a snowball effect, and they ended up in debt. Miss Pirie spoke to the repairs required to the bathroom which made it difficult to wash safely and caused the Applicants considerable concern. The Applicants had to source alternative accommodation quickly after receiving the notice to leave. Mr Charteris ended up working 7 days a week to make ends meet. The Applicants were therefore seeking the maximum award of six months rent.

Findings in fact

- 15 The Respondent is the owner and landlord, and the Applicants were the tenants, of the property in terms of a private residential tenancy agreement.
- 16 The Respondent became the owner and landlord of the property having purchased the property during the course of the Applicants' tenancy.
- 17 The rent due under the tenancy agreement was £450 per month. The rent was increased after the Respondent took ownership of the property to £495 per month.

- 18 On 27 March 2024 the Respondent gave the Applicants a notice to leave. The notice to leave included ground 1, stating the Respondent's intention to sell the property. The notice to leave stated that an application to the Tribunal for an eviction order would not be made before 15 June 2024.
- 19 The Applicants vacated the property in July 2024.
- 20 The Respondent did not intend to sell, or market the property for sale, when the notice to leave was delivered to the Applicants. The Respondent re-advertised the property for let on or around September 2024 at an increased rent of £695 per month.
- 21 The Applicants vacated the property on the understanding that the Respondent intended to sell, or market the property for sale, within three months of them vacating.
- 22 The Applicants would not have vacated the property had they not received the notice to leave. There was no other reason for them to do so. The Applicants were settled in the property and would have been content to remain there.
- 23 The Applicants required to secure alternative accommodation at short notice as a direct consequence of the notice to leave. The Applicants suffered financial detriment because of the costs they incurred in relocating to their new property.
- 24 The Applicants reported repairs to the Respondent during the tenancy. The repairs included deterioration in the condition of the bathroom which required refurbishment. Despite obtaining two quotes, the Respondent did not proceed with the repairs to the bathroom.

Reasons for decision

- 25 Having considered the documentary evidence and submissions from the Applicants, the tribunal was satisfied that it could make relevant findings in fact to reach a decision on the application following the CMD and that to do so would not be contrary to the interests of the parties in this case. The Respondent had not sought to oppose the application nor make any representations to the tribunal. As such there was no contradictory evidence before the tribunal and no issues to be resolved that would require a hearing to be fixed.
- 26 Section 58 of the 2016 Act applies where a private residential tenancy has been brought to an end in accordance with section 50 of the 2016 Act, namely in circumstances where the tenant has been given a notice to leave and has ceased to occupy the let property.
- 27 Section 58(2) states that "*an application for a wrongful-termination order may be made to the First-tier Tribunal by a person who was immediately before the tenancy ended either the tenant or a joint tenant under the tenancy ("the former tenant")*". Section 58(3) provides that "*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”.

- 28 The application of section 58(3) was considered in the decision of Sheriff KG Collins KC in *Reynolds v Henry* 2024 UT 45. At paragraph 13 of his decision, he sets out four principal issues which the tribunal requires to determine:-

- “(i) First, the landlord must have made some form of representation to the tenant (which might be by concealment of relevant and material facts). The landlord will necessarily have represented to the tenant that he has a ground for eviction in a notice to leave under the 2017 Regulations, since such a notice must have been served in order to terminate the tenancy under section 50 - a necessary precursor to an application under section 58. But conceivably other forms of written or oral representations may have been made to the tenant by the landlord, and if so might also be founded upon.*
- (i) Second, the representation must have been objectively misleading. Where it consists of a notice to leave, a representation will - in particular - be misleading if it states that the landlord has a ground for eviction under schedule 3 of the 2016 Act when in fact he does not.*
- (ii) Third, the tenant must have actually been misled by the landlord’s representation. If the tenant knew, for whatever reason, that the landlord’s representation was false - for example because he knew that the landlord did not in fact have the ground for eviction stated in a notice to leave - then he will not have been misled by it and the application cannot succeed.*
- (iii) Fourth, the representation must actually have misled the tenant into ceasing to occupy the property, that is, it must have been at least a significant or material cause of him doing so. So if the tenant’s decision to leave the property was for reasons other than the landlord’s representation, then again, his application cannot succeed.”*

- 29 In this case, the Respondent made a representation to the Applicants in the form of a notice to leave. The notice to leave included ground 1. For ground 1 to be established, a landlord must intend to sell the property, or market the property for sale, within three months of the tenant vacating. There is no evidence to suggest that the Respondent sought to market the property for sale. Instead, they advertised the property for let within three months of the Applicants vacating, at a substantially higher rent. In view of the Respondent’s actions, it can be reasonably assumed that they did not intend to sell the property when they gave the Applicants the notice to leave. The notice to leave was therefore objectively misleading as ground 1 could not be established at that time.

- 30 The Applicants believed the Respondent's intention to sell the property. They acted upon it by securing alternative accommodation, at a great cost. The Applicants were therefore actually misled by the Respondent's representation. They would not have vacated the property had they not received the notice to leave. There was no other reason at that time for them to do so. They were settled in the property and their circumstances at that time were such that relocating would have posed significant challenges.
- 31 The tribunal was therefore satisfied that the criteria set out in *Reynolds* are met, and the section 58(3) has been established.
- 32 The tribunal therefore considered whether to make a wrongful termination order which is at the tribunal's discretion. The tribunal determined that considering the circumstances of this case, and the conduct of the Respondent, a wrongful termination order is appropriate.
- 33 In terms of section 59(1) of the 2016 Act, the maximum penalty that can be imposed under a wrongful termination order is six months rent. The tribunal accepted that the rent was increased by the Respondent from £450 per month as stated in the tenancy agreement to £495 per month. The maximum penalty is therefore £2970.
- 34 The assessment of the appropriate penalty requires the tribunal to exercise its judicial discretion to determine what is fair, proportionate, and just. In doing so, the tribunal has balanced what it considers to be the relevant aggravating and mitigating factors in this case.
- 35 The tribunal considered the Applicants' circumstances. They had experienced significant financial difficulties as a direct result of the notice to leave, having been left in a position whereby they had to find a suitable home for themselves and their household. The tribunal accepted the submissions from Miss Pirie in this regard at the CMD. It was clear that the Applicants had been significantly affected as a direct result of having to vacate the property and this was a factor to which the tribunal gave significant weight.
- 36 The tribunal also considered the Respondent's conduct of the tenancy, particularly their response to repairs required to the property. The tribunal concluded on the balance of probabilities that the Applicants' prompts for repairs to be carried out to the bathroom was a factor in serving the notice to leave, as was the Respondent's desire to secure an increased rent for the property. That was a credible explanation as to why they had sought to re-advertise the property only two months after the tenancy ended at an increased rent.
- 37 The tribunal could identify no mitigating factors. The Respondent had not sought to challenge the application. They had not sought to provide any explanation as to why they had acted as they did in this case. Accordingly, the tribunal considered that an award at the highest end of the scale would be justified.

38 The tribunal therefore determined to make a wrongful termination order requiring the Respondent to pay the Applicants the maximum amount of £2970.

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.

Ruth O'Hare

27 May 2026

Legal Member/Chair

Date