



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 18 of the Housing (Scotland)
Act 1988**

Chamber Ref: FTS/HPC/EV/21/1784

**Re: Property at Flat 1/2, 12 Southpark Avenue, Glasgow, G12 8HZ (“the
Property”)**

Parties:

**Mr Patrick Antoine Bryson, Ms Catherine Marie Francoise Oddette Bryson, 8
Morningside Park, Edinburgh, EH10 5HB (“the Applicants”)**

**Mr David Paul Cheyne, Mrs Catriona McFarlane, Flat 1/2, 12 Southpark Avenue,
Glasgow, G12 8HZ (“the Respondents”)**

Tribunal Members:

Ms H Forbes (Legal Member) and Mrs F Wood (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for possession of the Property should be
granted against the Respondent**

Background

1. This is an application received in the period between 22nd July and 5th August 2021 made in terms of Rule 65 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”). The Applicants are seeking an order for possession of the Property under ground 1 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Applicants’ representative lodged a copy of the tenancy agreement between the parties, together with copy AT5, AT6, Notice to Quit, service information, section 11 Notice and Affidavit of the Applicant, Mr Bryson.
2. Service of the application and notification of the forthcoming Case Management Discussion was served upon the Respondents by Sheriff Officers on 1st September 2021.

Case Management Discussion

3. A Case Management Discussion (“CMD”) took place on 4th October 2021 by telephone conference. The Applicant, Mr Bryson, was in attendance. The Applicants were represented by Ms Euphemia Matheson, Solicitor. The Respondent, Mr Cheyne, was in attendance. The Tribunal was informed that the Respondent, Mrs McFarlane, was no longer residing at the Property, however, an order for possession was sought against both tenants.
4. Ms Matheson referred to the affidavit lodged, indicating that Mr Bryson, joint-owner of the Property, lived in the Property previously, and intended to return and occupy it as his only or principal home. Mr Bryson confirmed that was the case. He is currently residing with his parents in Edinburgh, but hopes to seek work in Glasgow, where he has a social network and partner.
5. Mr Cheyne said he had lived in the Property for five years and had never missed a rent payment. When he received notice to quit, he contacted the letting agent, who told him that the Applicants wished to sell the Property. It is a three bedroomed family home. He lives there with his two daughters who are 19 and 23. Both daughters are studying in Glasgow and one daughter will be taking exams at the end of January 2022, and will be looking for employment. He is self-employed.
6. Responding to questions from the Tribunal, Mr Cheyne said he has registered with letting agents to find alternative accommodation. He has not investigated social housing. There are no other matters, such as health concerns, to be taken into account.
7. Mr Bryson said there had never been any intention to sell the Property. He intends to live there. He would hope to let some of the rooms to friends as a live-in landlord.
8. The Tribunal adjourned to consider matters. The Tribunal considered the ground was met and that it was reasonable to grant the order.
9. The Tribunal reconvened and asked for submissions on extending the period before which the order for possession could be executed to a period of three months.
10. Ms Matheson submitted that this would be excessive. The Respondent had had a considerable period of notice, and the usual period of 30 days would allow him to mid-November. He had taken advice from the LSA and had been informed he had little chance of opposing the order, and ought to have taken steps to secure accommodation sooner.
11. Mr Cheyne said he had not been certain that proceedings would result in his having to move out of the property. He felt it would be easier to find accommodation by the end of January 2022, at which time he would only require two bedrooms, which would be easier to find. He thought there would

be difficulties in November, due to COP26 in Glasgow, and in December, due to the time of year. He suggested moving out on 14th January 2022, which was the ish date of the tenancy. It was his position that it would be reasonable to allow him to remain in the Property until mid-January.

12. Ms Matheson and Mr Bryson left the conference call to discuss matters.
13. Upon reconvening, Ms Matheson indicated that Mr Bryson's opposition to an extension to the period allowed for execution of the order remained, and that it had come to her attention that the Respondent was advertising a spare room for let on a website.
14. Mr Cheyne said he had no knowledge of the website and was not advertising a room for let. He considered that Mr Bryson would require an HMO licence if he was intending to let to multiple tenants, and this would take time.
15. The Tribunal adjourned to consider its decision. The Tribunal decided to grant the order with the proviso that the order cannot be executed before 14th December 2021.

Findings in Fact and Law

16.
 - (i) Parties entered into an assured tenancy agreement in respect of the Property which commenced on 14th April 2017 for a period of six months and monthly thereafter.
 - (ii) Notice to Quit and Form AT6 dated 9th April 2021 were sent to the Respondents by recorded delivery on 9th April 2021.
 - (iv) The Notice to Quit terminated the contractual tenancy on 14th July 2021.
 - (v) Form 11 was served upon the Local Authority prior to the lodging of the application.
 - (vi) The Applicant, Mr Bryson, occupied the Property as his only or principal home from 21st August 2014 to 5th August 2016.
 - (vii) The Applicant, Mr Bryson, requires the Property as his only or principal home.
 - (viii) It is reasonable in all the circumstances of the case to grant the order for possession of the Property.

Reasons for Decision

17. The Tribunal was satisfied that Ground 1 was established. The Tribunal considered it reasonable in all the circumstances of the case to grant the order sought. There did not appear to be any compelling family or personal

circumstances that would hinder the Respondent from finding alternative accommodation. The Tribunal did not consider the matter of whether or not an HMO licence was required as relevant to the case. The Tribunal decided it was appropriate to allow the Respondent a period of just over two months to find alternative accommodation.

Decision

18. An order for possession of the Property is granted against the Respondents. The order is not to be executed prior to 12 noon on 14th December 2021.

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.

H Forbes

Legal Member/Chair

4th October 2021
Date