



**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**

**Chamber Ref: FTS/HPC/EV/21/1906**

**Re: Property at 4/15 Calder Grove, Edinburgh, EH11 4ND (“the Property”)**

**Parties:**

**Mr Lewis Gilbert, The Old Dairy House, South Queensferry, EH30 9SS (“the Applicant”)**

**Mr Bismark Ansong, Mr Samuel Kofi Ansong, Mr Andrea Mireku Ansong, 4/15 Calder Grove, Edinburgh, EH11 4ND (“the Respondents”)**

**Tribunal Members:**

**Lesley-Anne Mulholland (Legal Member) and Elizabeth Dickson (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the applicant an Order to Evict the Respondents from the property at 4/15 Calder Grove, Edinburgh, EH11 4ND**

**BACKGROUND**

1. The Applicant is the Landlord and rightful owner of the property at 4/15 Calder Grove, Edinburgh, EH11 4ND (“the Property”). The Respondents are the Tenants. The Parties entered into a Private Residential Tenancy Agreement on 16 January 2019 to start from 19 January 2019.
2. The Applicant seeks to recover the property from the Respondents as he requires to use it as his principal home.
3. A Case Management Discussion took place remotely on the 8 November 2021.

A Note was issued of that discussion and is referred to for its terms.

4. An evidential hearing took place on the 20<sup>th</sup> of December 2021. The hearing was conducted remotely by teleconference. We were satisfied that those present could hear and be heard. The connectivity and sound was of reasonable quality and any apparent difficulties were resolved quickly.
5. The applicant served the Notice to Quit along with supporting documents by email dated 31<sup>st</sup> January 2021. We are satisfied that the required 3 months period of notice has been given before the application was made. We are satisfied that the applicant has notified the local authority of the application and that all legal requirements have been met.

### **THE HEARING**

6. The applicant asserts that he requires repossession of the property to allow him to live there as his principal home for a period of at least three months. He is currently residing with his parents. He owns another property which is tenanted and there are no difficulties with the tenant there or the property. Accordingly, he has no intention of disturbing that Private Residential Tenancy Agreement.
7. The property that is the subject of this application has structural damage which has caused water ingress. The applicant has obtained quotes for the works that require to be carried out which run into thousands of pounds. The applicant cannot afford to carry out the essential works therefore he intends to move into the property and renovate it in part himself to cut down the cost of renovation. This will take until around June or July 2022. At that time, he will make a decision to sell the property if he has been unable to finish the works and has run out of money.
8. This situation is not ideal as the property is not nearby his work. He would prefer not to sell it as he is in a fixed rate mortgage deal with penalties if the mortgage is repaid sooner than agreed. Either way, he requires to live in the property for a period of at least three months as his principal home.
9. He was keen to point out that the respondents have been model tenants, that they have paid their rent on time and are personable but his financial circumstances have left him in this predicament with little option other than to seek an Order for eviction. He has been in touch with the local authority and has established that they are aware of the application and that they will prioritise accommodation for the respondents if or when the Order is granted. The applicant helpfully let the respondents know that if an Order for eviction is granted, that he will not enforce it until such times as the local authority offer the respondents temporary accommodation. The local authority is under a duty to offer the respondents temporary accommodation to prevent homelessness.

10. The respondents stated that they have made a number of applications for suitable housing but have been unsuccessful either because they may have failed the credit rating or because the property that they require needs to have three bedrooms and there is little availability of that type of property. They contacted the local authority to ask for help but have not been successful in any of their requests for housing. They have contacted various agencies and charities to assist them.

## **ANALYSIS AND CONCLUSION**

11. Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 provides an eviction ground if the landlord intends to live in the property. It is helpful to set out the relevant provision here.

### **Landlord intends to live in property**

4(1) It is an eviction ground that the landlord intends to live in the let property.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months.

(a) the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months and

(b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.

(3) References to the landlord in this paragraph –

a) in a case where two or more persons jointly are the landlord under a tenancy, are to be read as referring to any one of them,

(b) in a case where the landlord holds the landlord's interest as a trustee under a trust, are to be read as referring to a person who is a beneficiary under the trust.

(4) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the landlord has that intention.

12. Following up on the Case Management Discussion on the 8<sup>th</sup> of November 2021, the applicant submitted a signed statement dated the 9<sup>th</sup> of November 2021. In that statement he claims that through economic necessity driven by the cost of repair work to the property because of damage caused by water ingress, he intends to reside at the property whilst carrying out restoration works to save on cost. He intends to reside at the property as his principal home for a period of around 3 to 6 months at least. He cannot give a guarantee that he will continue to reside there for any duration beyond the point where it becomes reasonably apparent that the cost of works is not affordable, necessitating sale.
13. The applicant attended the hearing and reiterated what he had said in his signed statement. The respondent did not challenge the applicant in any way.

Having considered all of the evidence before us individually and together, and there being no challenge to the applicant's stated position, and taking into account the difficulties the respondents have had in securing alternative accommodation to date, we have decided to grant the eviction Order in all of the circumstances. We are satisfied that it is reasonable to grant the Order as the local authority has a duty to provide accommodation to homeless persons and the required notice has been sent to the local authority who are aware of the application.

### **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.**

**Lesley-Anne Mulholland**

**20<sup>th</sup> December 2021**

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**Legal Member/Chair**

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**Date**