



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 11 of the Rent (Scotland) Act
1984**

Chamber Ref: FTS/HPC/EV/21/3098

Re: Property at Tigh na Craig, Luss, Argyll, G83 8NX (“the Property”)

Parties:

Luss Estates Company, Arnburn, By Arden, Argyll, G83 8RH (“the Applicant”)

**Mr Donald Roy Connor, Flat 16, Clyde Court, 123 West Clyde Street,
Helensburgh, G84 8AG (“the Respondent”)**

Tribunal Members:

Neil Kinnear (Legal Member) and Elaine Munroe (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This was an application for an eviction order dated 6th December 2021 and brought in terms of Rule 77 (Application for possession) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant sought an order in relation to the Property against the Respondent, and provided with its application written submissions explaining the history of the tenancy, notice to quit with proof of service, section 11 notice with proof of service, and evidence of suitable alternative accommodation.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 24th January 2022, and the Tribunal was provided with the execution of service.

The Tribunal received written submissions from the Respondent's representative in advance of the Case Management Discussion.

A Case Management Discussion was held at 14.00 on 28th February 2022 by Tele-Conference. The Applicant did not participate, but was represented by Mrs Bonthron, solicitor. The Respondent did not participate, but was represented by Mr McPhee, solicitor.

The Applicant had in its application explained that the Respondent inherited the lease of the Property from his parents, who had commenced the lease in 1952. Unfortunately, a copy of the written lease could not now be found, but the Respondent accepts that this was the situation.

The Applicant had been advised that the Property is now in such poor structural condition that it was beyond economic repair, was unsafe, and required to be demolished, which is why it brought this application. The Respondent did not consider the alternative property offered by the Applicant to be suitable alternative accommodation for him.

Mrs Bonthron and Mr McPhee advised the Tribunal that they had had helpful discussions which they both hoped might resolve matters, and which involved a different alternative accommodation being offered and the Respondent receiving independent advice on the condition of the Property. In those circumstances it was their joint motion that the Case Management Discussion be continued for those discussions to conclude.

Rule 28 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended allows the Tribunal discretion on its own initiative or on an application by a party, to adjourn a Case Management Discussion.

The Tribunal considered it to be reasonable to adjourn the Case Management Discussion in the whole circumstances in terms of Rule 28 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal considered that it was in the interests of justice, and consistent with its overriding objective of dealing with the proceedings justly in terms of Rule 2 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended, to adjourn the Case Management Discussion for the purpose of allowing the parties to attempt to resolve this matter by agreement.

The Tribunal received an e-mail from the Respondent's representative the afternoon before the date set for the continued Case Management Discussion, which indicated that agreement had been reached between the parties and that the Respondent consented to an eviction order being made against him.

Continued Case Management Discussion

A continued Case Management Discussion was held at 14.00 on 20th April 2022 by Tele-Conference. The Applicant did not participate, but was again represented by Mrs Bonthrone, solicitor. The Respondent did not participate, but was again represented by Mr McPhee, solicitor.

Mr McPhee advised the Tribunal that the Respondent had obtained an independent report of the condition of the Property. As a result of the information contained in that report, the Respondent now consented to the order sought being granted.

Statement of Reasons

In terms of Section 11 of the *Rent (Scotland) Act 1984* ("the Act"), the Tribunal shall not make an order for possession of a dwelling-house which is for the time being let on a protected tenancy or subject to a statutory tenancy unless it considers it reasonable to make such an order and either (a) it is satisfied that suitable alternative accommodation is available for the tenant or will be available for him when the order in question takes effect, or (b) the circumstances are as specified in any of the Cases in Part 1 of Schedule 2 to this Act.

The Tribunal is satisfied that it is reasonable to make such an order, and that suitable alternative accommodation is available for the tenant or will be available for him when the order takes effect. The parties have confirmed that alternative accommodation acceptable to the Respondent will be available for him, and the Respondent consents to the order being granted.

For the above reasons, the Tribunal shall make an order for possession.

Decision

In these circumstances, the Tribunal will make an order for possession of the house let on the tenancy as sought in this 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.

N. Kinnear

20th April 2022

Legal Member/Chair

Date