



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

Chamber Ref: FTS/HPC/EV/22/0092

**Re: Property at 422 Cambusnethan Street, Cambusnethan, Wishaw, ML2 8QA
("the Property")**

Parties:

**Mr Colin Adams, Shilladys Estate and Letting Agents, 206 Main Street,
Wishaw, ML2 7LU ("the Applicant")**

**Mrs Dawn Walker, 422 Cambusnethan Street, Cambusnethan, Wishaw, ML2
8QA ("the Respondent")**

Tribunal Members:

Susan Christie (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Parties)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be decided upon without a hearing and refused an eviction Order over the Property.

Background

1. The application for an eviction order was made on 7 January 2022 and accepted by the tribunal on 30 March 2022. The Applicant sought an eviction Order under Ground 1, Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 ('the Act').
2. The paperwork was served on the Respondent by Sheriff Officers service on 27 April 2022, the mode of service by letterbox.
3. Written representations were invited from the Respondent by 17 May 2022. No written representations were received.

The Case Management Discussion (CMD)- 8 June 2022 at 2pm.

4. A Case Management Discussion (CMD) took place on 8 June 2022 at 2pm by conference call. Neither Party participated. It was noted that intimation

of the date, time and conferencing line details had been issued to the applicant's representative by e mail on 26 April 2022. The paperwork was served on the Respondent by Sheriff Officers service on 27 April 2022, the mode of service by letterbox and that too included intimation of the date, time, and conferencing line details. The tribunal proceeded in the absence of the Parties as it was satisfied proper intimation had been made of the date and time arranged.

5. The tribunal considered the application and the paperwork submitted along with the Application was examined.
6. The requirements contained in Ground 1 of Schedule 3 of the Act was considered in detail.

Findings in Fact

- I. The owner of the Property is 'Colin Adams SPV Limited', a limited company number SC608227. It has a registered office at 165 Main Street, Wishaw.
- II. The registered landlord for the Property with North Lanarkshire Council is 'Colin Adams SPV Limited'.
- III. A Private Residential Tenancy (PRT) was entered into between the Applicant under the name Colin Adams, as an individual, and the Respondent on 27 May 2021, with a tenancy start date of 28 May 2021.
- IV. The Applicant in this application is Colin Adams, an individual, care of Shillady's Estate and Letting Agents and bears the address of the letting agent.
- V. A Notice to Leave in the name of the landlord's agent dated 1 June 2021 was served on the Respondent by signed for mail, sent on 2 June 2021.
- VI. A Notice on behalf of Colin Adams under Section 11 of the Homelessness etc. (Scotland) Act 2003 was sent to the relevant local authority after this application was made.
- VII. There is produced an incomplete Sole Sales Agency Agreement for the property address in the style of Keller Williams, which bears the name of Colin Adams as an individual, and is signed only by him dated 5 January 2022.
- VIII. The Applicant is not entitled to sell the Property.
- IX. The Applicant has not evidenced that he has authority to, or he intends to sell the Property for market value, or at least to put it up for sale, within 3 months of the tenant ceasing to occupy it.
- X. The tribunal refuses the application.

Reasons for Decision

7. The Applicant is not the registered owner of the Property and not the registered landlord. The owner of the Property is 'Colin Adams SPV Limited', a limited company number SC608227. It has a registered office at 165 Main Street, Wishaw.

8. The registered landlord with North Lanarkshire Council is Colin Adams SPV Limited.
9. A Private Residential Tenancy (PRT) was entered into between the Applicant under the name Colin Adams, as an individual and the Respondent on 27 May 2021, with a tenancy start date of 28 May 2021.
10. The Applicant in this application is Colin Adams, an individual, care of Shillady's Estate and Letting Agents and bears the address of the letting agent. An application such as this, under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Rules of Procedure 2017('the Rules of Procedure'), should include the name and address of the Applicant and the registration number of the Applicant as a landlord. The address of the Applicant has not been provided. The landlord registration number of the Applicant as an individual has not been provided. The Application does not comply with the Rules of Procedure.
11. A Notice on behalf of Colin Adams under Section 11 of the Homelessness etc. (Scotland) Act 2003 was sent to the relevant local authority *after* this application was made instead of beforehand as required in section 56 of the Private Housing (Tenancies) (Scotland) Act 2016.
12. As the Applicant *as an individual* is not entitled to sell the Property which is owned by a limited company 'Colin Adams SPV Limited' Ground 1, Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 cannot apply. Even if the tribunal is in error on that point, it has not been evidenced that he is entitled to sell the let Property in his own right and has not evidenced that he intends to sell the property for market value, or at least to put it up for sale, within 3 months of the tenant ceasing to occupy it. There is produced an incomplete Sole Sales Agency Agreement for the property address in the style of Keller Williams, which bears only the name of Colin Adams as an individual and is signed by him dated 5 January 2022. It has not been signed by the selling agent and is not a binding contract, nor has it been completed fully.
13. Even if the tribunal is in error on those points, the Tribunal had regard to the amendments made to the Act in relation to the Coronavirus (Scotland) Act 2020, and the discretion to be applied. The Tribunal is not satisfied an Order should be made nor is it reasonable to do so based on the paperwork provided. In addition to the reasons given above, it is noted that the PRT was entered into with a start date of 28 May 2021 and the Notice to Leave is dated 1 June 2021 with no explanation being given as to the circumstances and reasoning.
14. The decision is unanimous.

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.

Susan Christie

Legal Member/Chair

8 June 2022
Date