



**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/21/1729**

**Re: Property at 78 Irvine Road, Kilmarnock, KA1 2JS (“the Property”)**

**Parties:**

**East Ayrshire Conservative Association, 6 Nelson Street, Kilmarnock, KA1 2AA (“the Applicant”)**

**Miss Kim Dobie, 78 Irvine Road, Kilmarnock, KA1 2JS (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member) and Helen Barclay (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) determined to grant an order for eviction on ground 1 in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Background**

1. By application dated 15<sup>th</sup> July 2021 the applicant seeks an order for eviction on ground 1 in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016, namely that the applicant intends to sell the property at market value within three months of the respondent vacating it.
2. The following documents were lodged with the application:
  - Private residential tenancy agreement
  - Notice to leave
  - Section 11 notice
  - Letter of engagement from Roxburgh Group relating to the sale of the property dated 29<sup>th</sup> September 2020

- Minutes from the East Ayrshire Conservative Association meetings
3. A case management discussion (“cmd”) took place via teleconference on 4<sup>th</sup> October 2021. The applicant was represented by Ms Morrison, solicitor from TC Young solicitors. The respondent appeared on her own behalf.
  4. At the cmd the applicant sought an order for eviction. Ms Morrison advised that there were rent arrears amounting to £2475. Ms Morrison also stated the condition of the property had deteriorated due to the respondent actions.
  5. The respondent disputed that she had failed to maintain the interior of the property. She advised that she is very keen to move out of the property. She had been looking for a new home since January. She had registered with a tenancy deposit scheme to get help to find somewhere and to assist with raising the deposit. She advised that her personal possessions were mostly in boxes, and she was ready to move.
  6. The respondent explained that she is 40 years old. Prior to moving into the property, she had always owned her own home. She had been in poor health for some time. She had suffered a stroke and continued to experience health issues arising from that. The respondent advised that she continued to experience poor health and had an upcoming cardiogram. Due to her health conditions she had struggled with day-to-day matters.
  7. The Tribunal considered that it required further information in order to enable it to fully consider whether it was appropriate to grant an order. The Tribunal adjourned the application to a further cmd issued a direction require parties to lodge additional information.

### **Case management discussion – teleconference – 13<sup>th</sup> December 2021**

1. A second case management discussion (“cmd”) took place via teleconference on 13<sup>th</sup> December 2021. The applicant was represented by Mrs Mullen, solicitor from TC Young solicitors. The respondent appeared on her own behalf.
2. Prior to the cmd the applicant had lodged updated written representation and various productions including an updated rent account and an email from the respondent in relation to an offer of alternative accommodation.
3. The respondent confirmed that she had been offered a new property. The property required some works to be carried out to make it ready her for her to

move in. She had an appointment with the landlord's allocation officer to discuss what required to be done before she moved in by telephone on the morning of the cmd. The respondent was anxious not to miss the call and as it was directly relevant to the matter before the Tribunal the cmd was paused to allow the respondent to speak with her prospective landlord regarding issues which required to be resolved to allow her to move in.

4. The respondent advised that she wished to consent to an eviction order as she had now found a new property to move into. The respondent advised that she thought the new property would be ready for her to move into in January. She had no definite date for when the property would be ready. She had thought it would be ready by 14<sup>th</sup> January 2022 however, there was a possibility it might be later. However, she thought it would certainly be ready by the end of January 2022.
5. Mrs Mullen sought an order for eviction. She submitted that the respondent consented to an order being granted. She submitted that it was reasonable to grant an order. She stated that the landlord intended to sell the property, which was not disputed. She advised that it was reasonable to grant an order as the respondent had confirmed that she had now found somewhere else to live and had confirmed herself that she wished to move from the property as soon as possible. Mrs Mullen also relied on the level of rent arrears which now stood at £2175 in terms of the updated rent account which had been lodged in advance of the cmd.
6. The Tribunal discussed with parties in some detail the time scales within which the new property would be ready for the respondent to move in to. The respondent was made aware of the timescales for any order for eviction to be executed and confirmed again that she wished to consent to decree for eviction being granted and did not wish to seek additional time prior to an order becoming enforceable.

### **Findings in fact**

7. Parties entered into a Private Residential Tenancy agreement dated 29<sup>th</sup> August 2018.
8. The rent due in terms of the tenancy agreement is £550 per month.

9. A valid notice to leave was served on the respondent which specified that she required to vacate the property on 12<sup>th</sup> March 2021.
10. The applicant intends to sell the property at market value as soon as possible.
11. The respondent has been offered a property by a social landlord in Kilmarnock. The respondent intends to move to the property as soon as possible.
12. There are arrears of rent. As at 4<sup>th</sup> November 2021 the arrears amounted to £2175.
13. The applicant consents to decree for eviction being granted and does not seek to advance a defence based on reasonableness.

### **Reasons for the decision**

14. The Tribunal had regard to the application and the documents lodged by the applicant. The Tribunal also took into account the verbal representations made by parties at the cmd.
15. The Tribunal accepted that the applicant intends to sell the property as soon as possible at market value. The Tribunal had regard to the minutes of a meeting held by the applicant on 5<sup>th</sup> October 2020 which confirmed the intention to sell as well as a letter of engagement to Roxburgh Group relating to the sale of the property. Having accepted that there was an intention to sell the property the Tribunal proceeded to consider whether it was reasonable to grant an order.
16. The Tribunal took into account that the respondent stated that she wished to consent to an order for eviction being granted and that she had not sought to advance any defence based on reasonableness. The Tribunal accepted the evidence from both parties that the respondent had found a new property which was being prepared for her to move into. The Tribunal took into account the fact that there was a significant amount of rent arrears due.
17. Taking the above factors into account the Tribunal determined that it was reasonable to grant an order for eviction.

### **Decision**

**The Tribunal determined to grant an order for eviction.**

Mary-Claire Kelly

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Legal Member

\_\_\_\_13<sup>th</sup> December 2021\_\_\_\_\_  
Date