



**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/23/2447**

**Re: Property at 65 Crichton Circle, Port Elphinstone, Inverurie, AB51 3XG (“the Property”)**

**Parties:**

**Mr Neill Cameron, 10 MacAllan Road, Kintore, Aberdeenshire (“the Applicant”)**

**Mr Toufiq Fakhr El Din Al Hasriya and Mrs Salam Alaa El Din Al Hasriya, both 65 Crichton Circle, Elphinstone, Inverurie AB51 3XG (“the Respondents”)**

**Tribunal Members:**

**George Clark (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision (in absence of the Applicant)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondents.**

**Background**

1. By application dated 21 July 2023, the Applicant sought an Eviction Order against the Respondents under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2026. The Ground relied on was Ground 1 of Schedule 3 to the Act, namely that the landlord intends to sell the Property.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 2 August 2018, a Notice to Leave dated 6 April 2023 advising the Respondents that an application to the Tribunal under Ground 1 would not be made before 9 July 2023, and a letter from Kellas, solicitors, Inverurie, confirming that the Applicant has instructed them to arrange a Home Report and market the Property once the Respondents have moved out and renovation works have been carried out to make it ready to go on the open market.

3. The Applicant stated that he requires to renovate and sell the Property to fund a deposit for his daughter to purchase a house. He also provided copies of email exchanges with Aberdeenshire Council in which the Council said, in an email of 11 July 2023, that only when an Eviction Order has been granted will the Respondents be considered for rehoming by them.
4. On 31 October 2023, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 21 November 2023. The Respondents did not make any written representations to the Tribunal. However, they did send an email asking for the Tribunal to arrange for an interpreter to attend the CMD to support them.

### **Case Management Discussion**

5. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 12 December 2023. The Applicant was not present or represented. Both Respondents were present. The Respondents were assisted by an Arabic interpreter, Ms Abeer Abu Toq.
6. The Tribunal told the Respondents that it was satisfied that the requirements for a Ground 1 application had been met and that the issue for the Tribunal to determine was whether, in all the circumstances, it would be reasonable to issue an Eviction Order.
7. The Respondents told the Tribunal that since receiving their Notice to Leave they had been trying to find alternative accommodation from the Council and Housing Associations. They had bid for a number of properties being let by the Council, but had so far been unsuccessful, although they were awaiting the outcome of a bid they made last week. They need a 3-bedroom property as they have two sons, aged 21 and 15 and the older one requires to have his own bedroom. They said that they had received the same response from the Council as had the Applicant, namely that they would only be considered as a priority for rehoming once an Eviction Order was granted. They did not oppose the application and an Order would assist them in their efforts to be rehoused, if they were not successful in bidding for properties in the meantime being offered for let by the Council or Housing Associations.

### **Reasons for Decision**

8. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
9. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies. Ground 1 of Schedule 3 to the 2016 Act provides that it

is an eviction ground that the landlord intends to sell the let property and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell and intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts. Ground 1 goes on to state that evidence tending to show that the landlord has that intention includes (for example) a letter of engagement from a solicitor or estate agent concerning the sale, or a recently prepared Home Report.

10. The Tribunal was satisfied from the evidence provided that the Applicant intends to sell the Property. Accordingly, the only matter for the Tribunal is to decide whether it would be reasonable to issue an Eviction Order.
11. The Tribunal noted the reason given by the Applicant for wishing to sell the Property, namely that he wanted to raise funds for a deposit for his daughter to enable her to buy a house. The Tribunal would have welcomed the opportunity to learn more about the Applicant's situation, including whether he owned other rental properties, but was unable to do so, as he had not joined the conference call. The Respondents had, however, told the Tribunal that they would like an Eviction Order to be granted, so that the Council would assist them in their efforts to be rehoused and there was evidence from the Council's email of 11 July 2023 to the Applicant that they would not consider the Respondents a priority for rehoming until such an Order was made. Accordingly, having considered carefully all the evidence before it, the Tribunal decided to grant the application and to issue an Eviction Order.
12. The Tribunal noted that its Decision will be affected by the Cost of Living (Tenant Protection) (Scotland) Act 2022 and that its practical effect will be that the Eviction Order cannot be enforced before 31 March 2024, when the provisions of that Act expire.

## 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.**

George Clark

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Legal Member/Chair

12 December 2023  
Date

