



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/24/3730

Property : 22 Marle Street, Castle Douglas DG7 1DN (“Property”)

Parties:

Gavin McDonagh and Dorothy McDonagh, Lawthorn, Octavia Terrace, Greenock PA16 7SP (“Applicant”)

GM Thomson & Co, 35 Buccleuch Street, Dumfries DG1 2AB (“Applicant’s Representative”)

Callum Docherty and Katelyne Conaghan, 22 Marle Street, Castle Douglas DG7 1DN (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to make an order for possession of the Property.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement which commenced on 5 August 2022; Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 15 May 2024 ("Notice to Leave"); copy email from the Applicant’s Representative to each Respondent attaching the Notice to Leave dated 15 May 2024; estate agency contract issued by Gillespie Gifford & Brown LLP dated 14 May 2024 and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 13 August 2024. A Case Management Discussion (“CMD”) was fixed for 14 May 2025. The Application was served on the Respondent by sheriff officer on 13 March 2025.

Case Management Discussion

A CMD took place before the Tribunal on 14 May 2025 by teleconference. Carol Miller of the Applicant's Representative was in attendance along with Mr McDonagh. Both Respondents were also in attendance.

Mr Docherty told the Tribunal that the Respondent did not object to the application being granted. Ms Conaghan told the Tribunal that the Respondents live in the Property with their 2 year old son. She said she is expecting another baby at the end of July. She said she had been in touch with the local authority about alternative accommodation and they had told her that they could not assist the Respondent until an order for possession was granted. She said that she works in Castle Douglas. Mr Docherty told the Tribunal that he cares for his son. He also told the Tribunal that the Property has 2 bedrooms and has not been adapted in any way.

Ms Miller told the Tribunal that the Applicant wishes to sell and the Property and that it is not financially viable. Mr McDonagh told the Tribunal that both Applicants are aged 67. He said that Mrs McDonagh is retired and that he is currently employed full time but wishes to retire. He said that he owns one other rental property in Gourrock.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property which commenced on 5 August 2022.
2. A Notice to Leave was served on the Respondent by email on 15 May 2024. It stated that an application for an eviction order would not be submitted to the Tribunal before 10 August 2024.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
4. The Applicant holds title to the Property and is entitled to sell the Property.
5. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

Reasons for the Decision

In terms of section 51 of the Act, 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 applies.

In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell the Property. The evidence lodged with the application of intention to sell was estate agency contract issued by Gillespie Gifford & Brown LLP dated 14 May 2024. The Tribunal considered the evidence provided and determined that the ground for eviction had been established.

The Tribunal considered the question of reasonableness. In the circumstances, and in light of the Respondent's lack of opposition to the application being granted, the Tribunal determined that it was reasonable to grant an order for possession of the Property.

Decision

The Tribunal determined to grant an order for possession of the Property.

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.

**Joan Devine
Legal Member**

Date : 14 May 2025