



**Decision 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/22/2957**

**Re: Property at 14 Clarence Street, Flat 2/1, Paisley, PA1 1PU (“the Property”)**

**Parties:**

**Mr Kenneth Yates, 4 Carolside Gardens, Clarkston, Glasgow, G76 7BX (“the Applicant”)**

**Mr Alan Cowie, 14 Clarence Street, Flat 2/1, Paisley, PA1 1PU (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (Legal Member) and Janine Green (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted against the respondent**

Introduction

This is an application under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The application seeks an eviction order.

Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the respondent by Sheriff Officers on 30 November 2022.

The CMD took place by teleconference on 3 February 2023 at 10.00 am. The applicant was represented by Ms C Harper and Ms J McLelland both of Castle Residential. The respondent failed to participate in the hearing. There was no known reason for his failure to do so. No representations have been received by or on behalf of the respondent.

## Findings and Reasons

The property is 14 Clarence Street, Flat 2/1, Paisley PA1 1PU. The applicant is Mr Kenneth Yates who brings the application with the consent of his wife, Mrs Elizabeth Yates, who jointly owns the property. The respondent is Mr Alan Cowie.

The parties entered into a private residential tenancy in respect of the property which commenced on 30 August 2021. The rent was stipulated at £395 per month.

The applicant relies upon eviction ground 1 contained within part 1, schedule 3 to the 2016 Act. This specifies that it is an eviction ground where the landlord intends to sell the let property. Ground 1 was originally drafted as a mandatory ground for eviction. All eviction grounds are discretionary. The relevant notice period under ground 1 at the time that the notice to leave was served was one of 6 months.

The notice to leave relied upon in the eviction application has been prepared in accordance with the provisions of Section 62 of the Act. The notice to leave relied upon is dated 3 February 2022 and stipulates that the earliest an application would be submitted to the tribunal would be 10 August 2022. Evidence of service of the Notice upon the respondent by email delivery on 3 February 2022 has been produced. The notice to leave served upon the respondent and relied upon in this application is therefore valid.

The applicant's motive to evict the respondent relates to the fact that his mortgage term is coming to an end and he is unable to re-mortgage the property. The property was purchased as part of the applicant's financial retirement planning. In support of the ground for eviction the applicant has produced copy correspondence with his agents regarding the proposed sale, including details as to what price he requires to achieve upon sale.

The tribunal was satisfied on the basis of the credible and reliable documentary evidence produced that it is the applicant's genuine intention to sell the let property. This establishes ground 1.

The tribunal proceeded to consider the issue of reasonableness of the making of an eviction order. The tribunal weighed up the respective circumstances and needs of the parties.

The respondent is known to be a young man in his 30's. He has no dependants and no known disability or other vulnerabilities. He has failed to pay rent since November 2022 and the current arrears are £2,015. He has offered no opposition to the application.

A relevant Section 11 notice has been issued to the relevant local authority. The tribunal was satisfied that the respondent will be provided with alternate accommodation in the event of an eviction order being made against him. The local authority has an obligation to do so.

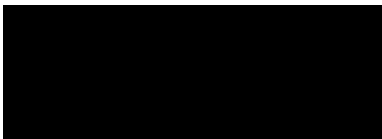
Weighing up the respective circumstances of the parties, the tribunal concluded that it was reasonable to grant the eviction order.

## **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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

**Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.**



3 February 2023

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**Legal Member/Chair**

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**Date**