



**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 (Act)**

**Chamber Ref: FTS/HPC/EV/22/1799**

**Re: Property at 14B New Garrabost, Isle of Lewis, Western Isles, HS2 0PL (“the Property”)**

**Parties:**

**Mr George Coutts, Flat 1 Oaklands, Merlewood Road, Inverness, IV2 4NL (“the Applicant”)**

**Mrs Pauline Nicholson, 14B New Garrabost, Isle of Lewis, Western Isles, HS2 0PL (“the Respondent”)**

**Tribunal Members:**

**Alan Strain (Legal Member) and Frances Wood (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted but that the date for recovery of possession be deferred until 24 February 2023.**

**Background**

This is an application under Rule 109 and section 51(1) of the Act in respect of the Applicants’ intention to live in the Property and for eviction and recovery of possession on Ground 1 of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application dated 9 June 2022;
2. Notice to Leave dated 6 May 2022 2020 and served by email of the same date;
3. Section 11 Notice to Local Authority served on 3 June 2022;
4. Written Representations from the Respondent and email dated 18 November 2022;

5. Written Representations from the Applicant by email dated 29 November 2022;
6. Documentation from the Parties regarding the sale/purchase of the Property.

### **Case Management Discussion (CMD)**

The case called for a CMD by conference call on 1 December 2022. Both Parties participated and represented themselves.

The Applicant informed the Tribunal that he was only relying on Grounds 1 and 11. The basis of Ground 11 was breach of the agreement between the Parties for the Respondent to purchase the Property. The Applicant accepted that there was no written tenancy agreement in place. The Applicant needed to sell the Property to assist with the finance of his Property in Inverness.

The Respondent confirmed that the intention had been to purchase the property however that had not ultimately been possible. She had secured a job offer in Guernsey and her intention was to be there in January to secure accommodation and for her 10 year old daughter to be able to start school in Guernsey on 24 February 2023.

The Tribunal ascertained from the Parties that they were agreeable to an Order for recovery of possession to be granted provided it was not enforceable until 24 February 2023. Both Parties agreed this would be a satisfactory outcome in the circumstances.

Having heard from the Parties the Tribunal had regard to the terms of Ground 1:

*Landlord intends to sell*

1(1) It is an eviction ground that the landlord intends to sell the let property.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—

(a) is entitled to sell the let property,

(b) 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

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

The Tribunal then considered the documentary evidence it had received from the Parties and the submissions made. In so far as material made the following findings in fact:

1. The Parties let the subjects under a verbal PRT in terms of which the Respondent paid rent of £600 per month to the Applicant in or around April 2021;
2. The Applicant had intended to sell the Property and had agreed to sell it to the Respondent. The Parties had agreed to lease the Property until that paperwork was finalised. The sale did not proceed and the tenancy was never formalised;
3. The Applicant is the owner of the Property and intends to sell it or at least put it up for sale within 3 months of the Respondent ceasing to occupy it;
4. Notice to Leave had been served on the Respondent by email on 6 May 2022;
5. Section 11 notification had been served on the local authority;
6. The Respondent agrees to the order being granted provided it is not enforceable before 24 February 2023;
7. It is reasonable to issue an eviction order on account of these facts.

The Tribunal considered all of the evidence and submissions. The Tribunal was satisfied that Ground 1 had been established on the evidence before it and that the procedure was fair. The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought.

The Tribunal consider the circumstances of the Applicant, the Respondent's position and accepted that it was reasonable on account of the established facts to grant the application for eviction and recovery of possession. The Tribunal determined that it would be reasonable to grant the order but to postpone execution of the order to 24 February 2023 under Rule 16A of the Tribunal Procedure Rules. This would allow the Respondent further time to source alternate accommodation in Guernsey for her family.

### **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.**

01/12/2022

---

**Legal Member/Chair**

---

**Date**

