



**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/19/0400

**Re: Property at 15 Wilton Street, North Kelvinside, Glasgow, G20 6LF (“the
Property”)**

Parties:

**Myra Macleod-Nolan, Deijlerweg 11, 2241AA, Wassenaar, The Netherlands
John Nolan, Deijlerweg 11, 2241AA, Wassenaar, The Netherlands
Chantal Macleod-Nolan, c/o Deijlerweg 11, 2241AA, Wassenaar, The
Netherlands
Tiree Macleod-Nolan, c/o Deijlerweg 11, 2241AA, Wassenaar, The Netherlands
 (“the Applicants”)**

**Anthony Narloch, 15 Wilton Street, North Kelvinside, Glasgow, G20 6LF (“the
Respondent”)**

Tribunal Members:

Joel Conn (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

Background

1. This is an application by the Applicants for an eviction order in regard to a Private Residential Tenancy (“PRT”) in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”). The PRT in question was by the Applicants (although only the First Applicant was named as landlord) to the Respondent commencing on 13 July 2018.
2. The application was dated 6 February 2019 and lodged with the Tribunal on 7 February 2019.

3. The application relied upon a Notice to Leave dated 8 December 2018 in terms of section 50 of the Private Housing (Tenancies) (Scotland) Act 2016, intimated upon the Respondent by email on 9 December 2018. The Notice relied upon Ground 1 of Schedule 3 Part 1 of the 2016 Act, being that the landlord intends to sell. The Notice intimated that an application to the Tribunal would not be made before 7 January 2019.
4. Evidence of a section 11 notice dated 6 February 2019 in terms of the Homelessness Etc. (Scotland) Act 2003 served upon Glasgow City Council was provided with the application.

The Hearing

5. On 12 April 2019, at a case management discussion ("CMD") of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting at the Glasgow Tribunals Centre, I was addressed by the Applicants' agent, Olivia Keenan, Trainee Solicitor of Jackson Boyd LLP.
6. There was no appearance by the Respondent. The Applicants' agent stated that no contact had been received from the Respondent in advance of the CMD and that, to the best of her knowledge, the Respondent continued to reside at the Property. The clerk confirmed that no contact had been received by the Tribunal from the Respondent. In the circumstances, I was satisfied to proceed in the absence of the Respondent.
7. The Applicant confirmed that the application for eviction was still insisted upon and no order for expenses was sought.
8. Further to correspondence prior to the CMD, the Tribunal had noted that the application was raised in the name of the First Applicant only but that title to the Property appeared to be in the names of her and three other members of the family. Prior to the CMD, the Applicants' agent had provided by email notices of consent from John Nolan (who was said to reside with the First Applicant in the Netherlands) and Chantal Macleod-Nolan and Tiree Macleod-Nolan (who were said to be 'care of' that family home), all seeking to join the application. I permitted that amendment and noted that the application was now by all four Applicants named in the instance of this Decision.

Findings in Fact

9. On 10 July 2018, the Applicants let the Property to the Respondent under a Private Residential Tenancy with a commencement date of 13 July 2018 ("the Tenancy").
10. In terms of clause 3 of the PRT, the parties agreed that email communication would be sufficient for communication of notices in terms of the Tenancy.

11. On 8 December 2018, the First Applicant drafted a Notice to Leave in correct form addressed to the Respondent, providing the Respondent with notice that "Your Landlord intends to sell the Let Property" and giving the reason that the Applicants wished to bring the Tenancy to an end on this ground because they were "selling [the] property". The Notice to Leave provided the Respondent with notice that no application would be raised before the Tribunal prior to 7 January 2019.
12. By email on 9 December 2018, the First and Second Applicants emailed a copy of the Notice to Leave to the Respondent to the email address he had provided in the Tenancy for such purposes of communication.
13. On 9 December 2018, the Respondent had been entitled to occupy the Property for not more than six months.
14. The Notice to Leave provided the Respondent with greater than 28 days notice of the Applicants' intentions.
15. On 21 January 2019, the First and Second Applicants engaged Purple Bricks to advance marketing of the Property for sale.
16. The Applicants intend to place the Property on the market for sale within three months of obtaining vacant possession, so to assist in the First and Second Applicants relocating from the Netherlands to Scotland, all following the Second Applicant's retirement in the summer of 2019.
17. On 6 February 2019, the notice period under the Notice to Leave having expired without the Respondent apparently vacating the Property, the Applicants raised proceedings for an order for eviction with the Tribunal, under Rule 109, relying on Ground 1 of Schedule 3 Part 1 of the 2016 Act, and providing evidence of their instruction to Purple Bricks that they should market the Property for sale.
18. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon Glasgow City Council on or around 6 February 2019 on the Applicants' behalf.
19. On 22 March 2019, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondent, providing the Respondent with sufficient notice of the CMD of 12 April 2019.

Reasons for Decision

20. The application was in terms of rule 109, being an order for eviction of a PRT. I was satisfied on the basis of the application and supporting papers that the Notice to Leave had been correctly served upon the Respondent. In regard to whether a sufficient period of notice was afforded, I was

satisfied that, as the Respondent had been entitled to occupy the Property for less than six months, sufficient notice had been provided.

21. In regard to whether the Notice to Leave was in sufficient detail, Part 2 of the notice stated that it relied upon Ground 1 of Schedule 3 Part 1 of the 2016 Act; that the Applicants sought to sell the Property. Little explanation was provided in Part 3 of the notice. It was limited to two words: "SELLING PROPERTY". I considered that in the circumstances this was sufficient explanation. I was thus satisfied that the requirements of the 2016 Act had been complied with in regard to the Notice to Leave in itself and as a pre-requisite to raising the application.
22. In regard to whether I was satisfied that the Applicants were entitled to rely upon Ground 1 in these circumstances, I was provided with evidence that they had engaged an estate agent and the Applicants' agent provided submissions that marketing was not yet able to commence due to the Respondent's lack of cooperation. (Correspondence to this effect was also lodged with the application.) The Applicants' agent further explained that the Applicants would be seeking to market for sale very promptly on obtaining vacant possession as the First and Second Applicants wished to move back to Scotland in the Summer, following the Second Applicant's retirement, and wished to use the sale proceeds to fund this relocation. In all the circumstances before me, I was satisfied that Ground 1 was well founded by the Applicants.
23. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. I was thus satisfied to grant an order for eviction.

Decision

24. In all the circumstances, I make the decision to grant an order against the Respondent for eviction from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 in normal terms.

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.

Joel Conn

Date

12 April 2019