

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/23/3738**

**Re: Property at 21 Torphin Walk, Greenfields, Glasgow, G32 6QQ (“the Property”)**

**Parties:**

**Mr Pawel Garbowicz, UL OGARNA 93/94 M5 (FLAT 5) 80-826, Gdansk, Poland (“the Applicant”)**

**Miss Siobhan McMahon, Mr Ryan Forlow, 21 Torphin Walk, Greenfields, Glasgow, G32 6QQ (“the Respondents”)**

**Tribunal Members:**

**Richard Mill (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision**

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

**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 respondents by Sheriff Officers on 5 January 2024.

The CMD took place by teleconference on 23 February 2024 at 10.00 am. The applicant was represented by Miss Lorraine Brennan of 1-2-LET Letting Agency. The first respondent joined the hearing

## Findings and Reasons

The property is 21 Torphin Walk, Greenfields, Glasgow G32 6QQ. The applicant is Mr Powell Garbowicz who is the heritable proprietor of the property and the registered landlord. The respondents are Miss Siobhan McMahon and Mr Ryan Forlow who are the tenants.

The parties entered into a private residential tenancy in respect of the property which commenced on 27 October 2018. The rent was stipulated at £595 per month.

The applicant relies upon 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. The relevant notice period under ground 1 when the notice to leave was served was one of 84 days.

The notice to leave relied upon in this case is dated 27 July 2023 and stipulates that the earliest an application be submitted to the tribunal would be 22 October 2023. The notice to leave was served upon the respondents by email on the day that the notice to leave is dated. Sufficient notice was given and the notice to leave is valid.

In support of the ground of eviction the applicant has produced a copy of email communications between him and his letting agent regarding his intention to sell and the steps required to achieve this. The applicant used to live in the UK but has permanently returned to Poland. The mortgage over the property has risen significantly. The tribunal was satisfied that it is the applicant's genuine intention to sell the let property. This is not challenged.

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

The respondents are both in full time employment. They are not opposed to the application. The let property no longer suits their needs. They require a larger property. They have three teenage children and the second respondent's son lives with them at weekends. They have applied to several housing associations over the last 3 years without success. They have sought advice from several organisations, including Shelter, and were told to remain in the property until such time as an eviction order was granted to avoid them being treated as having made themselves intentionally homeless.

Overall the respondents are keen to move on from the let property to secure alternative accommodation and the making of the eviction order will not significantly prejudice them.

A Section 11 notice has been issued to the local authority. The respondents will be provided with accommodation in the event of an eviction order being made against them.

Weighing up the respective circumstances of the parties, the tribunal concluded that it was reasonable to grant the eviction order. The tribunal further extended the period before an eviction can be implemented. The earliest date would be 31 March 2024. The tribunal extended this by almost two weeks (to 12 April 2024) taking into account the burden for the respondents given the number of children they have and also taking into account the school holiday dates.

### **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.**



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Legal Member/Chair

23 February 2023

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Date