

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/22/1393

Property : 22 Douglasdale, East Kilbride, Glasgow G74 1DE (“Property”)

Parties:

Dorothy Foy, 9 Killin Place, Troon KA10 6PE (“Applicant”)

**Wallace Hodge & Co Ltd, 6 Killoch Place, Ayr KA7 2EA (“Applicant’s
Representative”)**

**Janice Woodside, 22 Douglasdale, East Kilbride, Glasgow G74 1DE
 (“Respondent”)**

Tribunal Members:

Joan Devine (Legal Member)

Elizabeth Williams (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: a Private Residential Tenancy Agreement dated 7 July 2020; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 7 October 2021 ("NTL"); copy email from Hemmings Homes to the Respondent dated 7 October 2021 attaching Notice to Leave; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with proof of posting attached and estate agency sales contract dated 28 February and 1 March 2022.

A case management discussion (“CMD”) took place before the Tribunal on 20 October 2022. Reference is made to the note of the CMD. At the CMD the Tribunal noted that a complete but unsigned copy of the NTL had been produced along with an incomplete but signed copy of the NTL. The outcome of the CMD was that a continued CMD was fixed for 31 January 2023 and the Tribunal issued a Direction setting out the further

information they required in order to be satisfied that a complete NTL had been served on the Respondent. In advance of the continued CMD the Applicant's Representative lodged an inventory of productions containing an affidavit by Aimee Nelson of Hemmings Homes dated 16 January 2023 and the documents referred to in the affidavit.

Continued CMD

A continued CMD took place before the Tribunal on 31 January 2023 by teleconference. The Applicant was represented by Norman Fraser of the Applicant's Representative. The Respondent was not in attendance. The Tribunal noted the terms of the affidavit produced. The Tribunal was satisfied that a completed NTL had been attached to the email of 7 October 2021. The Tribunal noted that tenancy agreement provided that notices were to be sent by email.

The Tribunal had been addressed on the question of reasonableness at the CMD. Mr Fraser told the Tribunal that the rent continued to be paid via housing benefit. He said that the Respondent had not engaged with the letting agent so he had limited information regarding her circumstances. He did know that at the time of taking up the tenancy the Respondent had said she would live in the Property with an adult child who was attending college. Mr Fraser said that the Applicant intended to sell the Property as soon as possible.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Private Residential Tenancy Agreement dated 7 July 2020 ("Tenancy Agreement").
2. A Notice to Leave was served on the Respondent by email on 7 October 2021. It stated that an application for an eviction order would not be submitted to the Tribunal before 10 April 2022.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
4. Notice of the date of the continued case management discussion had been given to the Respondent on 8 December 2022.
5. The Applicant holds title to the Property and is entitled to sell the Property.
6. 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

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act.

In terms of section 51 of the Act, the First-tier 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 she sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell. The evidence lodged with the application of intention to sell was a copy of an estate agency sales contract. The Applicant's Representative had told the Tribunal that the Applicant would market the Property as soon as possible after obtaining vacant possession. In those circumstances the ground for eviction had been established. Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order.

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

**Joan Devine
Legal Member**

Date : 31 January 2023