



**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/20/1621**

**Re: Property at 24/4 Shandon Place, Edinburgh, EH11 1QL (“the Property”)**

**Parties:**

**Mr Douglas Rogerson, 18 Bapaume Road, Mosman, New South Wales, 2088, Australia (“the Applicant”)**

**Violeta Haynes Martinez, 24/4 Shandon Place, Edinburgh, EH11 1QL (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction should be made.**

**Background**

On 30<sup>th</sup> July 2020 the Applicant lodged an application with the Tribunal in terms of Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking eviction of the Respondent in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) Scotland Act 2016 (“the Act”).

Lodged with the Application were:

1. Copy Tenancy Agreement
2. Copy Notice to Leave
3. Copy of Sheriff Officer’s Execution of Service for Notice to Leave
4. Copy section 11 Notice

5. Copy Letter from Aikman Bell, Solicitors dated 7<sup>th</sup> January 2020 confirming that they had been instructed as selling agents.

## **Case Management Discussion**

The Case Management Discussion (“CMD”) took place by teleconference on 5<sup>th</sup> October 2020.

The Applicant was represented by Mr Runciman of Gilson Gray, Solicitors. The Respondent was present, and was also represented by Andrew Wilson of Community Help and Advice Initiative.

The Chairperson introduced everyone and laid out the purposes of a CMD.

The Chairperson asked Mr Runciman to address the Tribunal on his application. He said that the Tenancy had been entered in to, a Notice to Leave had been served by Sheriff Officers giving more than the required 84 days notice, and the application had been raised. He explained that the Applicant had emigrated to Australia and required to sell the property to fund the purchase of a property there. He said that a letter from Aikman Bell, Solicitors dated 7<sup>th</sup> January 2020, confirming that they had been instructed as selling agents, had also been lodged. He was seeking that the order be granted.

Mr Wilson said, on behalf of the Respondent, that she did not dispute any of the facts. The Notice to Leave had been served just before the Coronavirus restrictions had come in to effect, and she had therefore been unable to vacate. She realised that when the order was granted she would have to vacate.

The Chairperson confirmed, given that it was mandatory, that she would grant the order.

## **Findings In Fact**

1. The parties entered in to a Private Residential Tenancy Agreement commencing on 8<sup>th</sup> January 2019;
2. A Notice to Leave was served on the Respondent by Sheriff Officers on 28<sup>th</sup> February 2020;
3. The Respondent was given sufficient notice in terms of the Act;
4. A letter from Aikman Bell, Solicitors dated 7<sup>th</sup> January 2020, confirming that they had been instructed as selling agents had been produced.

## **Reasons For Decision**

Ground 1 of Schedule 3 of the Act states:

*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 must find that the ground named by sub-paragraph (1) applies if the landlord—*

*(a) is entitled to sell the let property, and*

*(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.*

*(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 Chairperson was satisfied that evidence tending to show that the Respondent intended to sell the property, in the form of the letter from Aikman Bell, had been produced. The ground was therefore satisfied and the granting of the order was mandatory, not discretionary.

## **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.**

Alison Kelly

05/10/2020

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**Legal Member/Chair**

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**Date**