



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) In respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and Rule 109 of the Rules**

**Chamber Ref: FTS/HPC/EV/21/2993**

**Re: Property at 96 Minard Road, Glasgow, G41 2DL (“the Property”)**

**Parties:**

**Mr Gerard Houston and Mrs. Marcella Houston, 1 Cartview Court, Busby, Glasgow, G76 8EW (“the Applicants”)**

**Mr Erich Harrison, 96 Minard Road, Glasgow, G41 2DL (“the Respondent”)**

**Tribunal Members:**

**Karen Moore (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision**

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

**Background**

1. By application received between 1 and 30 December 2021 (“the Application”), the Applicants applied to the Tribunal for an Order for eviction and possession of the Property based on the Grounds that a member of the Applicants’ family intends to live in the let property as that person’s only or principal home for at least 3 months and that the Property is to be sold after refurbishment. The Application comprised a copy of the tenancy agreement between the Parties. The Application comprised copy Notice to Leave in terms of Grounds 1, 3 and 5 of Schedule 3 to the Act dated 23 August 2021, copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Glasgow City Council, being the relevant local authority, copy email from the Applicants to the Respondent relating to the conduct of the tenancy and copy letter purporting to be an affidavit by the Applicant’s daughter stating that she intends to take occupancy of the Property, renovate and purchase it, that she is without her own home and that she resides with the Applicants.

2. The Application was accepted by the Tribunal and a Case Management Discussion (the "CMD") was fixed for 28 March 2022 at 14.00 by telephone conference call.
3. Prior to the CMD, the Respondent submitted written submissions requesting two months to vacate the Property, stating that the rent for the Property is excessive at £1,200.00 per month, that his business had suffered during the Covid-19 pandemic, that he had made payment of all rent arrears plus £5,000.00 and that he had recently been widowed. The written submission was copied to the Applicants.

#### **CMD**

4. The CMD took place on 28 March 2022 at 14.00 by telephone conference call. The first-named Applicant and the Respondent took part and were not represented.
5. The Tribunal explained that the purpose of the CMD was to establish if the Application could proceed and if the Tribunal could grant an Order at the CMD. The Tribunal explained there are three issues which it must consider and on which it must be satisfied. These are: the competence of the Application in terms of the Act, the sufficiency of evidence to establish the Ground or Grounds and if it is reasonable on account of the facts to grant the Order sought.
6. The first-named Applicant advised the Tribunal that the Applicants were relying on Ground 5 of Schedule 3 to that Act as the Applicant's daughter intends to live in the let property as that person's only or principal home for around a year, during which time she will refurbish the Property in order to sell it and move elsewhere. He confirmed the details of the Application that his daughter has returned from Dubai to the family home, having been made redundant and requires the Property as her main residence.
7. The Respondent advised the Tribunal that he intends to vacate the property and is in the process of purchasing a property in which to reside. He confirmed the content of his written submission and advised that his financial position has much improved. He estimated that he would be able to vacate the Property in around 6-8 weeks when his finances are fully in place.
8. The first-named Applicant agreed that the Respondent has repaid the rent previously due and had made a lump sum payment of £5,000.00 which the Applicants are holding to account for future rent payments.

#### **Findings in Fact**

1. From the Application and the CMD, the Tribunal made the following findings in fact: -
  - i) There is a tenancy of the Property between the Parties at a weekly rent of £350.00;
  - ii) The Applicants' daughter intends to live in the Property as her only or principal home for at least 3 months and
  - iii) The Respondent intends to vacate the Property when his purchase of another property completes.

#### **Issues for the Tribunal**

2. The issues for the Tribunal is to determine if the Application is competent in terms of the Act, if the eviction Ground is established and if it is reasonable to grant the Order on account of those facts.
3. With regard to competence of the Application, the Tribunal was satisfied that it is competent.
4. With regard to the eviction Ground 5, the Tribunal was satisfied on the written statement before it and on the first-named Applicant's submissions at the CMD that Applicants' daughter intends to live in the Property as her only or principal home for at least 3 months.
5. With regard to the reasonableness aspect of the Application, the Tribunal, having regard to the position of both Parties as submitted by them at the CMD, was satisfied that on account of the facts that it is reasonable to grant the eviction Order. The Tribunal had regard to the Respondent's position in respect of when his purchase of another property might complete and took the view that it was just and equitable in all respects that the date for termination of the tenancy be delayed until 20 June 2022 to account for any potential delays in the conveyancing process.

### **Decision**

6. Having made those findings, the Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "may do anything at a case management discussion .....including making a decision" and so proceeded to make an order for eviction and possession to come into effect on 20 June 2022.

### **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.**

**Legal Member: Karen Moore**

**Date: 28 March 2022**