



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“The Act”)**

**Chamber Ref: FTS/HPC/EV/22/1088**

**Re: Property at 19 Townhead, Dalmellington, Ayr, KA6 7QZ (“the Property”)**

**Parties:**

**Ms Cristie Boland, 31 Bank Glen, New Cumnock, KA18 4QG (“the Applicant”)**

**Ms Lucy Riches, 19 Townhead, Dalmellington, Ayr, KA6 7QZ (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order.**

**Background**

The Applicant seeks an Eviction Order on the basis of Ground 1 of Schedule 3 of the Act in that it is said that the Applicant wishes to sell the Property. The Application is accompanied by a copy of the tenancy agreement between the parties, the relevant Notice to Leave and proof of it having been served on the Respondent. Evidence of compliance with s11 of the Homelessness (Etc) (Scotland) Act 2003 is also produced.

**The Case Management Discussion**

The Application called for a Case Management Discussion at 10 am by conference call on 31 October 2022. The Application called alongside a related Application in respect of

a Payment Order between the parties. The Applicant was represented by Ms Barlow of D.W Shaw Solicitors. There was no appearance by or on behalf of the Respondent. On the basis that the Application and information about how to join the conference call had been competently served on the Respondent at 8 Church Hill, Dalmellington KA6 7QP. where she was now believed to be residing, the Tribunal decided to proceed in the absence of the Respondent.

Having heard from Ms Barlow and having considered the Application, the Tribunal made the following findings in fact.

### **Findings in Fact**

- I. *The parties entered into a tenancy agreement which commenced on 1 September 2018;*
- II. *The Applicant was the landlord and the Respondent was the tenant;*
- III. *The Applicant wishes to sell the Property;*
- IV. *On 22 September 2021, the Applicant served a Notice to Leave in terms of Ground 1 of Schedule 3 of the Act on the Respondent which informed them that the end of the notice period was 22 March 2022;*
- V. *The Applicant served a notice under s11 of the Homelessness (etc) (Scotland) Act 2003 on the relevant local authority;*
- VI. *The Respondent is thought to have vacated the Property in April 2022 and is believed to be living elsewhere at an address in Dalmellington;*
- VII. *The Applicant wished to sell the Property both at the date of service of the notice to leave and also at today's date;*
- VIII. *The Notice to Leave ought to have provided that the notice period would end on 25 March 2022 taking account of sections 62 (4) and 62 (5) of the Act. This however is a "minor error" within the meaning of s73 of the Act and the Tribunal decided that it did not affect the material effect of the notice;*
- IX. *The Tribunal considered that it was reasonable to grant an Eviction Order;*

### **Reasons for Decision**

Having made the above findings in fact, the Tribunal granted the Application and made an Eviction Order.

### **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.**

**A. McLaughlin**

31 October 2022

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**Legal Member/Chair**

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**Date**