



**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/22/2290**

**Re: Property at Flat 1/2, 14 West End Park Street, Glasgow, G3 6LG (“the Property”)**

**Parties:**

**Mr Grant Strathdee, Flat 1/2, 10 Mansionhouse Road, Glasgow, G41 3DN (“the Applicant”)**

**Jennifer Hanlon, Flat 1/2, 14 West End Park Street, Glasgow, G3 6LG (“the Respondent”)**

**Tribunal Member:**

**Karen Kirk (Legal Member) and Elizabeth Currie (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent.**

**The First-tier Tribunal further orders a delay to on or after 28<sup>th</sup> February 2023 in the execution of the Order.**

## **1. Introduction**

This Case Management Discussion (CMD) concerned an Application in relation to an application for an Eviction Order in connection with a Private Residential Tenancy under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The CMD took place by teleconference.

## **2. Attendance and Representation**

The Applicant was represented by Heather Moltman, Lindays LLP, Caledonian Exchange, 19A Canning Street, Edinburgh, EH3 8HE.

The Respondent was represented Derek Mahood, Legal Services Agency, Fleming House, 3<sup>rd</sup> Floor, 134 Renfrew St, G3 6ST.

### **3. Background**

This case called as a Case Management Discussion on 16<sup>th</sup> November 2022 and was adjourned to a further Case Management Discussion to allow the Respondent to obtain legal advice. This Case Management Discussion ("CMD") proceeded on this basis. Prior to same the Respondent had instructed Derek Mahood, Legal Services Agency, 3<sup>rd</sup> Floor Fleming House who had confirmed he was acting before this CMD.

### **4. Application for Review**

On 29<sup>th</sup> November 2022 the Applicant lodged an application for Review of the decision of the Tribunal on 16<sup>th</sup> November 2022 to adjourn to a Case Management Decision. The Applicant sought review of same on the basis they considered that a Hearing ought to be fixed rather than a Case Management Discussion. The Applicant's representative said that the Applicant was no longer insisting on same and withdrew same on the basis that the Applicant did not expect the next date would be quite as soon.

### **5. Case Management Discussion**

*For the Applicant*

The Applicant's representative confirmed that at the last hearing the Respondent had been making attempts to secure alternative accommodation but also a gradual return to work. She said now 2 months along further time has been given and the Applicant now sought an order for Eviction. The Applicant's representative said that the Respondent sought to delay enforcement but that was opposed by the Applicant. The submission was that the Applicant continues to have costs and continues to seek to sell the property. There were further no details or no further information on the financial investment the Applicant seeks to progress but he no longer wishes to be part of the rental market. An order for Eviction was sought.

*For the Respondent.*

The Respondent's representative said that the Respondent did not oppose an Eviction Order but was seeking a delay in the enforcement of an Order. The submission was that the Respondent has made efforts to secure alternative

accommodation from before the Tribunal proceedings commenced and in the interim. The Respondent's circumstances were complicated by physical and mental health issues. The Respondent had long covid was unable to work from Feb to October and this impacted on her ability to secure private accommodation. The Respondent's representative explained the Respondent was due to commence regular employment on 16<sup>th</sup> January 2022 and was hopeful this could assist in finding alternative accommodation. The Applicant was also in contact with housing associations and now had received legal advice on homelessness. The Respondent is in receipt of universal credit.

## **6. Reasons for Decision and Findings in Fact**

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion. Matters in respect of an order for Eviction were sufficiently agreed. There was no need for a Hearing. It was in the interests of the parties and in the interests of justice and having regard to the Overriding objective to make a decision.**
- 2. The Applicant sought an Order for Eviction on the grounds that the Applicant intends to sell the property..**
- 3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.**
- 4. There was a PRT in place between parties dated 18<sup>th</sup> November 2020.**
- 5. A Notice to Leave was sent to the Respondent on 11<sup>th</sup> April 2022.**
- 6. The Tribunal was satisfied on balance that the Applicant intended to sell the property in terms of Schedule 3, Part 3 Ground 1 of the 2016 Act. This was not in dispute.**
- 7. The Tribunal found that the requirements of Ground 1 of Schedule 3 to the Act had been met.**
- 8. The Tribunal was also satisfied that a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.**
- 9. The Tribunal noted the Local Authority under the 2016 had been notified on 8<sup>th</sup> July 2022.**
- 10. On the evidence available to the Tribunal an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.**
- 11. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.**
- 12. The Tribunal considered in balancing the interest of both parties and in light of the submissions made on behalf of the Respondent that it was appropriate to delay enforcement of the order until on or after 28<sup>th</sup> February 2023, in particular due to the Respondent's mental ill health.**

## **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.

# Karen Kirk

11<sup>th</sup> January 2023

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Legal Member/Chair

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Date