



**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 and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/EV/22/2291**

**Re: Property at 12 Lochcraig Court, Bourtreehill South, Irvine, KA11 1JY (“the Property”)**

**The Parties:**

**Mr. Steven Williams and Mrs. Hilary Williams, both residing at 12, Braunton, Avenue, Weeping Cross, Stafford, Staffordshire, ST17 0EP (“Applicants”) per their agents, Homesure Portfolio Management, Unit B5, Olympic Business Park, Drybridge Road, Dundonald, KA2 9BE (“the Applicants’ Agents”)**

**Mrs. Catherine Wallace residing at the Property (“the Respondent”)**

**Tribunal Members:**

**Karen Moore (Legal Member) and Gerard Darroch (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory ground for eviction and recovery of possession having been established, it is reasonable to grant the Order sought and so the Tribunal granted the Order.**

1. By application received on 11 July 2022 (“the Application”), the Applicants’ Agents applied to the Tribunal for an Order for possession of the Property based on Ground 1, the landlord intends to sell the let property of Schedule 3 to the Act. The Application comprised copy Notice to Leave dated 13 April 2022, copy private residential tenancy agreement between the Parties with an entry

date of 1 March 2022 and copy notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to North Ayrshire Council, being the relevant local authority. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 17 October 2022 at 14.00 by telephone conference. The CMD was intimated to the Parties and, in particular, was served on the Respondent by sheriff officer on 1 September 2022.

### **CMD**

2. The CMD took place on 17 October 2022 at 14.00 by telephone. Mr. Hall of the Applicants’ agents took part on their behalf. The Respondent did not take part and was not represented. She did not submit any written representations.
3. The Tribunal explained that the purpose of the CMD was to identify the facts of the matter, and in the absence of any response from the Respondent, to determine if the Tribunal can grant the Order. The Tribunal noted from the Application that the correct statutory procedures had been carried out and asked Mr. Hall to explain the steps taken by the Applicants to evidence their intention to sell.
4. Mr. Hall advised the Tribunal that, although the private residential tenancy commenced on 1 March 2022, the Respondent had resided in the Property under a short assured tenancy since 1 December 2008. Therefore, although the Notice to Leave appeared to have been issued shortly after the start of the tenancy, the occupation had been longer term. Mr. Hall stated that the Applicants have entered into conditional missives for the sale of the Property to an investment company and that vacant possession is required to complete the sale. Mr. Hall explained that it was his understanding that the Respondent lives alone and has no additional needs or requirements. He understood that she has been in contact with the local authority to obtain alternative accommodation.

### **Issue for the Tribunal**

5. The issue for the Tribunal is to determine if the statutory ground is established and if it is reasonable to grant the Order. 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*”. The Tribunal took the view that it had sufficient information to make a decision on both the statutory ground and reasonableness and so proceeded to determine the Application.

### **Findings in Fact**

6. 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;
- ii) The Applicants have entered into conditional missives to sell the Property;
- iii) The Applicants intend to sell the Property when they have vacant possession;
- iv) The Applicants have carried out the statutory processes required by the Act.

### **Decision and Reasons for Decision**

- 7. The Tribunal had regard to all the information before it and to its Findings in Fact and found that the statutory ground is established.
  
- 8. The Tribunal then considered if it could be satisfied that it is reasonable to issue an eviction order on account of those facts and on all of the information before it. The Tribunal had regard to the fact that the Applicants have entered into a contract to sell the Property and are committed to that contract. The Tribunal noted that the Respondent, by her lack of engagement with the tribunal process, has not put forward any objection or opposition to the Application. Accordingly, the Tribunal was satisfied that it is reasonable to issue 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.**

# K. Moore

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**Legal Member/Chair**

**17 October 2022**  
**Date**