



**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/22/3724**

**Re: Property at 48 Unicorn Court, Dundee, DD13BH (“the Property”)**

**Parties:**

**Mr John Henderson, 8 Rowan Avenue, Northmuir, Kirriemuir, DD8 4TD (“the Applicant”)**

**Miss Emtenan Alshayea, 48 Unicorn Court, Dundee, DD13BH (“the Respondent”)**

**Tribunal Members:**

**Fiona Watson (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.**

- Background
- 1. An application dated 7 October 2022 was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of the Applicant’s intention to sell the Property, being Ground 1 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).

- Case Management Discussion

2. A Case Management Discussion (“CMD”) took place on 20 February 2023, by conference call. The Applicant was represented by his agent, Mr May of Easylets. The Respondent appeared personally and represented herself.
3. The Applicant’s representative moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement (“the Agreement”), which commenced 25 February 2020. The Applicant intended to sell the Property and required vacant possession in order to do so. A Notice to Leave had been served on the Respondent on the basis of Ground 1 of Schedule 3 to the 2016 Act, on 18 April 2022. The Applicant has financial difficulties and is in arrears of payments due under the mortgage over the Property. He has been selling off his rental portfolio, and has gone from having owned 10 rental properties and is now down to the last two, both of which he intends to sell.
4. The Respondent submitted that she had been trying to obtain alternative accommodation but had been unsuccessful in doing so. She is in her fourth year of study at the University of Dundee. Her academic year finishes in November 2023. She has contacted the University regarding accessing student accommodation, but the only accommodation available requires her to share facilities with others which she does not wish to do. She is not entitled to local authority housing as she is an international student.
5. The following documents were lodged alongside the application:
  - (i) Copy Private Residential Tenancy Agreement
  - (ii) Copy Notice to Leave
  - (iii) Proof of service of the Notice to Leave by recorded delivery
  - (iv) Section 11 notification to the local authority under the Homelessness etc. (Scotland) Act 2003
  - (v) Letter from Michael Brown Solicitors dated 22 November 2022 confirming their instruction marketing the Property for sale.

- Findings in Fact

6. The Tribunal made the following findings in fact:
  - (i) The parties entered into a Private Residential Tenancy Agreement which commenced on 25 February 2020;
  - (ii) The Applicant is the heritable proprietor of the Property;
  - (iii) The Applicant is entitled to sell the Property;
  - (iv) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 1 of Schedule 3 to the 2016 Act;
  - (v) The Applicant has provided a letter of engagement from a solicitor regarding the marketing of the Property.

- Reasons for Decision

7. The Tribunal was satisfied that the terms of Ground 1 of Schedule 3 to the 2016 Act had been met, namely that the Applicant intends to sell the property and intends to do so within 3 months of the Respondent ceasing to occupy it. The Tribunal was satisfied that a Notice to Leave had been served on the Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act. The Tribunal was also satisfied that it was reasonable to grant the order in the circumstances. Whilst the Tribunal had some sympathy with the Respondent in her having been so far unsuccessful in obtaining alternative accommodation, the Tribunal also took into consideration the Applicant's financial difficulties and his need to sell the Property for financial reasons, and also that the letter from Michael Brown Solicitors noted that the lender may commence calling up procedures shortly. The Tribunal was satisfied that, taking into account both parties' circumstances, it was reasonable to grant the order.

- Decision

8. The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

### **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**

**Date: 20 February 2023**