



**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 (Act)**

**Chamber Ref: FTS/HPC/EV/22/3818**

**Re: Property at 2 Barwood Drive, Erskine, PA8 6AQ (“the Property”)**

**Parties:**

**Mr Alexander Nimmo, Mrs Jaqueline Nimmo, 18 Mains Drive, Erskine, PA8 7JQ (“the Applicant”)**

**Miss Nicole McDaid, 2 Barwood Drive, Erskine, PA8 6AQ (“the Respondent”)**

**Tribunal Members:**

**Alan Strain (Legal Member) and Elizabeth Dickson (Ordinary Member)**

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

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

**Background**

This is an application under Rule 109 and section 51(1) of the Act in respect of the Applicants’ intention to sell the Property and for eviction and recovery of possession on Ground 1 of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application received 18 October 2022;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 24 October 2019;
3. Notice to Leave dated 17 June 2022 and served by email on that date;
4. Section 11 Notice to Local Authority;
5. Email dated 17 October 2022 to Local Authority serving Section 11 Notice;
6. Terms of engagement with solicitors confirming instruction to market and sell the Property dated 17 October 2022;

7. Sheriff Officer Certificate of Service of Tribunal CMD Notification on Respondent dated 30 January 2023;
8. Written Representations from the Applicant containing rent statement as at 1 February 2023 and Letter from Mortgage Lender to Applicant dated 24 November 2022.

### **Case Management Discussion (CMD)**

The case called for a CMD by conference call on 28 February 2023. The Applicants did not participate but were represented by their letting agent. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate but she did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that she should attend and the Tribunal could determine the matter in absence if she did not.

The Applicant's Representative confirmed the sale of the Property was required by the Applicants' lender as confirmed by the letter of 24 November 2022. The Respondent was in significant rent arrears of £8,910 as at 1 February 2023. The Respondent lived in the Property with her 2 children. She had been offered alternative accommodation by the local authority but had refused it as not suitable. As far as the Applicants were aware she was in employment. The Respondent was refusing to engage with the Applicants.

Having heard from the Applicants' representative the Tribunal had regard to the terms of Ground 1:

*Landlord intends to sell*

1(1) It is an eviction ground that the landlord intends to sell the let property.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—

(a) is entitled to sell the let property,

(b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b)a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

The Tribunal then considered the documentary and oral evidence it had received from the Applicant and in so far as material made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 24 October 2019;
2. The monthly rent was £1,200;
3. The Applicants are the owner of the Property and intend to sell it or at least put it up for sale within 3 months of the Respondent ceasing to occupy it;
4. Notice to Leave had been served on the Respondent by post and email;
5. The Applicants have engaged solicitors and estate agents to market and sell the Property;
6. Section 11 notification had been served on the local authority on 17 October 2022;
7. The Applicant's mortgage lender requires the Property to be sold;
8. The Respondent is in rental arrears of £8,910 as at the date of the CMD;
9. It is reasonable to grant the order for recovery of possession.

The Tribunal considered all of the evidence and submissions. The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal determined that it would be reasonable to grant the order.

The Tribunal was satisfied that Ground 1 had been established and accordingly granted the application for eviction and recovery of possession.

### **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.**

Alan Strain

23 February 2023

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Legal Member/Chair

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Date