



**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.**

**Chamber Ref: FTS/HPC/EV/20/0877**

**Re: Property at 911 Dumbarton Road, Dalmuir, West Dunbartonshire, G81 4LA (“the Property”)**

**Parties:**

**Mr Robert Kennedy, 9 Clarence Drive, Clydebank, West Dunbartonshire, G81 2DN (“the Applicant”)**

**Ms Karen Conway, 911 Dumbarton Road, Dalmuir, West Dunbartonshire, G81 4LA (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Elaine Munroe (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

- **Introduction.**

**The Applicant seeks an Eviction Order in respect of Section 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016. A Case Management Discussion called on 6 August 2020. Notes of that Case Management Discussion were produced together with Directions issued to regulate further procedure ahead of the Hearing assigned for today.**

- **The Hearing.**

**The Hearing called by conference call at 10am on 24 September 2020. The Applicant was present on the conference call. The Respondent was not present. The Respondent had been notified of the date and time of the conference call by letter dated 27 August 2020. This letter was sent by**

recorded delivery and was signed for under the name “Conway” on 11 September 2020.

The Tribunal also noted that the Respondent had been personally present on the Case Management Discussion conference call and been made aware that a Hearing would be assigned.

The Direction issued by the Tribunal also obliged the Respondent to provide any evidence she wished to rely on and a list of witnesses by 24 August 2020. The Tribunal noted that no response to this Direction had been received.

The Tribunal considered that in these circumstances, it was fair to proceed with the Hearing in the absence of the Respondent.

- Evidence of the Applicant.

The Tribunal heard evidence from the Applicant in support of his Application. He gave evidence that the Property had been his family home from between 1998 and 2014. He and his family left that property due to the health needs of his 16 year-old son who suffers from cystic fibrosis. Since then the Applicant had let the Property out to various tenants. The Applicant explained that he runs a business called Strathendrick Biogas which recently has been facing severe cash flow issues. As a result of these financial difficulties the Applicant explained that he required to sell the Property to realise capital to repay short term loans which the Applicant had taken out to secure the viability of his business. The Applicant explained that he had already sold another property in Torrevieja in Spain for the same reason. The Applicant realised he was in financial difficulties in November 2019.

The Applicant explained that he was being completely genuine when he stated that he wished to sell the Property as he needed money to repay around £200,000.00 of loans taken out in his name to secure his business’s future.

The Applicant stated that he had spoken to an estate agent called Clydebank Estate Agency on 12 March 2020. He had also been exploring the idea of selling the Property back to the local authority. He advised that the Respondent had refused him access to the Property to arrange a home report and to allow any survey to be prepared.

The Applicant acknowledged that the Respondent had not paid any rent since December 2019 and this naturally would also have been a valid reason for him wishing to have her evicted. The Applicant however advised that he was certain that this was a separate matter and did not form the basis of him wishing to sell the Property.

After giving evidence, the Tribunal questioned the Applicant carefully on the content of his evidence.

**The Tribunal considered that the evidence given by the Applicant was credible and reliable. The Tribunal had no cause to suspect that the evidence given was anything other than given candidly and honestly.**

**Having heard evidence from the Applicant, the Tribunal made the following findings in fact.**

- I. The Applicant and the Respondent signed a tenancy agreement in respect of the Property with a date of entry of 14 August 2020.**
- II. The Applicant, together with his wife Christine Kennedy were the Landlords and the Respondent was the Tenant.**
- III. In November 2019 the Applicant's business suffered serious financial difficulties.**
- IV. The Applicant urgently required to raise capital to pay off loans taken out to support the ongoing viability of his business.**
- V. The Applicant sold a property in Spain and wished to sell the Property to raise funds.**
- VI. On 1 February 2020, the Applicant sent a Notice to Leave by recorded delivery to the Respondent. The Notice provided an Application for an Eviction Order would not be lodged with the Tribunal before 3 March 2020.**
- VII. The Notice to Leave was signed for by the Respondent on 12 February 2020.**
- VIII. The Notice to Leave stated that the eviction grounds being used was Grounds 1- *"Your landlord intends to sell the Property"*.**
- IX. As the Respondent had not been in occupation of the Property for more than six months, the correct period of notice had been given to the Respondent in respect of section 54 (2).**
- X. At that time and as at today's Hearing, the Applicant intends to sell the Property.**

**XI. The Applicant wishes to sell the Property to raise capital to pay off loans taken out to steer his business through financial hardship.**

- **Reasons for Decision**

**Having made the above findings in fact, the Tribunal considered that the test set out in Grounds 1 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 is met.**

**The Tribunal accordingly 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**

**24 September 2020**

---

**Legal Member/Chair**

---

**Date**