



**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/23/1755**

**Re: Property at Flat A, 147 Crow Road, Glasgow, G11 7SJ (“the Property”)**

**Parties:**

**Mrs Linda Lappin and Mr James Lappin, both 52 Orford Avenue, Radcliffe-on-Trent, Nottingham, NG12 2DD (“the Applicants”)**

**Mrs Lorna Robinson, Flat A, 147 Crow Road, Glasgow, G11 7SJ (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.**

**Background**

1. By application dated 30 May 2023, the Applicants sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The Ground relied on was Ground 1 of Schedule 3 to the Act, namely that the landlord intends to sell the Property.
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 2 September 2019 at a rent of £800 per month, and a Notice to Leave dated 3 March 2023, stating that Ground 1 was the reason for the Applicant seeking an Eviction Order and that an application to the Tribunal would not be made before 29 May 2023. The Applicant also provided copies of an exchange of emails/messages with a firm of estate agents in Glasgow, confirming that they will instruct a Home Report as soon as the Respondent vacates the Property. These emails/messages

also included confirmation of acceptance by the Applicants of the estate agents' terms of business and fees.

3. The Applicants stated in the Notice to Leave that due to a change of circumstances, they wished to sell the Property.
4. On 29 September 2023, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 20 October 2023.
5. On 19 October 2023, the Respondent made written representations to the Tribunal. She stated that she had been unable to secure another rental property due to lack of availability and difficulty in obtaining viewing appointments. She was a single parent and the effect on her son of COVID restrictions, with home schooling, was such that, on return to school, his attendance had dipped below 70%. This had had an impact on the Respondent's ability to gain employment. She had a cat and a dog and she had limited budget with regard to rent. She was, however, now in employment and had secured a mortgage offer to enable her to purchase a property. An offer made on her behalf had been accepted, but it had then transpired that the seller was *incapax*. Her understanding was that an application for a Guardianship Order was likely to be granted at a Hearing on 8 November 2023 and that the sale to her would complete shortly afterwards. The only reasons she had not already vacated the Property were the challenging housing market and the delay in completing her purchase. She needed to stay in the Property until she could move into her newly purchased home. Her mortgage offer was available until the end of January 2024.
6. The Respondent provided copies of emails/messages exchanged with her solicitors in Bearsden, in which they confirmed on 26 June 2023 that her offer had been accepted. They later confirmed that the selling solicitors had now advised then that the seller was *incapax*, and, on 10 August 2023, that the selling solicitors expected a Guardianship Order to be granted in October 2023, after which they could set a date of entry.
7. On 30 October 2023, the Applicants' solicitors provided a statement from the Applicants, who confirmed that they intend to sell as they no longer want to be landlords and shoulder the increasing onerous responsibilities that come with that role. They pointed out that they live more than 300 miles away from the Property. They are seeking an Eviction Order as the Respondent did not comply with the Notice to Leave. In anticipation that she would comply, they contacted a local estate agent on 4 March 2023, asking them to act in the sale. They also contacted their solicitors on 8 March 2023 and agreed terms of business and fees with both firms. They had wanted to get as much of the groundwork done in order to minimise delays during the sale process. They take their role as landlords very seriously. With the support of their letting agents, they have been responsible, proactive and attentive landlords throughout, and considerate in meeting the Respondent's requests. For example, although the tenancy agreement does not permit pets, they had agreed the Respondent's request to get a dog for her son. The time has,

however, come to do what is right for them. They simply no longer wish to be landlords.

### **Case Management Discussion**

8. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 7 November 2023. The Applicants were represented by Ms Kirsty McMillan of Western Lettings, Glasgow. The Respondent was present and was supported by Mrs Ruth Malloy.
9. The Respondent told the Tribunal that she had no update on the situation regarding her house purchase, as the Guardianship hearing is tomorrow, but her understanding is that, once granted, the sale can progress quickly. She stressed that she has been a good tenant and will be leaving the Property in good condition. Ms McMillan confirmed that the Respondent has been an excellent tenant.

### **Reasons for Decision**

10. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
11. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies. Ground 1 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the landlord intends to sell the let property and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell and 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 the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts. Ground 1 goes on to state that evidence tending to show that the landlord has that intention includes (for example) a letter of engagement from a solicitor or estate agent concerning the sale, or a recently prepared Home Report.
12. The Tribunal was satisfied from the evidence provided that the Applicants intend to sell the Property and that the Respondent has been aware of their intentions since March 2023. Accordingly, the only matter for the Tribunal was to decide whether it would be reasonable to issue an Eviction Order. The Tribunal noted that the Respondent had taken steps to secure alternative accommodation, that she was unsuccessful in her efforts to obtain an alternative property to rent, but that she now has a mortgage offer in place and has had an offer on a house purchase accepted, subject to the appointment of a Guardian and, thereafter, the setting of a completion date. It is the Respondent's intention to vacate the Property as soon as her purchase is finalised.

13. Having taken into account all the circumstances of the case, the Tribunal decided on balance that it would be reasonable to issue an Eviction Order under Ground 1 of Schedule 3 to the Act. In doing so, the Tribunal stresses that absolutely no fault attaches to the Respondent, the application being based entirely on the desire of the Applicants to exit the letting market and sell the Property.
14. The Tribunal also noted that the Cost of Living (Tenant Protection) (Scotland) Act 2022 applies to its Decision, as the application was not made before 28 October 2022, the date on which that Act came into force. This means that the Order cannot be enforced for six months, unless Paragraph 1 of Schedule 2 of the Cost of Living (Tenant Protection) (Scotland) Act 2022 expires or is suspended by the Scottish Government. At present, it has been continued to 31 March 2024. This period will, the Tribunal hopes, provide the Respondent with sufficient time to complete her proposed purchase, rendering it unnecessary for the Order to be enforced.
15. The Tribunal's Decision was unanimous.

### **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.**

# G. Clark

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Legal Member/Chair

**7 November 2023**  
Date