



**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/23/2818**

**Re: Property at 2 Dunottar Avenue, Coatbridge, ML5 4LR (“the Property”)**

**Parties:**

**Mr William Russell Kent Balantyne, 43 Mill Road Armadale, Bathgate, West Lothian, EH48 3QL (“the Applicant”)**

**Claire Callaghan, Mr Gary McHugh, 2 Dunottar Avenue, Coatbridge, ML5 4LR (“the Respondents”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Gerard Darroch (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.**

**Background**

1. An application was received by the Housing and Property Chamber dated 17<sup>th</sup> August 2023. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 15<sup>th</sup> November 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 11<sup>th</sup> January 2024 at 10am by teleconferencing. The letter also requested all written representations be submitted by 15<sup>th</sup> November 2023.

3. On 16<sup>th</sup> November 2023, sheriff officers served the letter with notice of the CMD date and documentation upon both the Respondents by leaving it in the hands of the First Named Respondent's mother. This was evidenced by Certificate of Intimation dated 16<sup>th</sup> November 2023.

#### The Case Management Discussion

4. A CMD was held on 11<sup>th</sup> January 2024 at 10am by teleconferencing. The Applicant was represented by Miss Yvonne Fisher, HomeLink Estate and Letting Agents Ltd. The Respondents were not present and not represented. By 10.17am the Respondents had not joined the CMD. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondents did not make representations in advance of the CMD.
5. Miss Fisher said that there has been no communication from the Respondents. The Respondents have not let the letting agent into the Property to undertake the required gas and electricity checks. The Applicant does not believe that the Respondents will cooperate to allow the home report to be undertaken or allow viewings of the Property. His preference to market the Property once there is vacant possession. The Applicant has discussed moving forward with the sale of the Property with Miss Fisher's company once the Respondents have left.
6. There are three months arrears on the rent account. This is for the months of August to October 2023. Payments resumed in November 2023.
7. Miss Fisher said that she has not been notified of any local authority involvement in terms of the Respondents being rehoused. Miss Fisher said that she believes that the Respondents wish to remain in the Property. It is a very desirable property as it is a three bedroom end terrace property with a large garden and garage. The rent on the Property is £645 per month. The equivalent property now would be more expensive as the Respondents have been in the Property for some time.
8. Miss Fisher said that the Respondents live in the Property with their two children who she believes are under 16 years old. The Respondents are in employment. There are no health problems or known vulnerabilities.
9. The Tribunal was satisfied that it was appropriate to grant an order for eviction and that there were no issues of reasonableness to prevent an order from being granted.

#### Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 22<sup>nd</sup> August 2018.
11. The Applicant is the Executor Nominated of the late Landlord, Mrs Agnes Morrison. Mrs Morrison was the Applicant's sister.

12. The Applicant wants to sell the Property to divide the proceeds of sale between the beneficiaries of the will.
13. The Respondents have not allowed the letting agents in the Property to carry out the necessary gas and electricity inspections. The Applicant believes the Respondents would not cooperate to have a home report undertaken or viewings for the Property. The Applicant will undertake this once there is vacant possession.
14. There are no issues of reasonableness that prevent an order from being granted.

### Decision

15. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant.

### **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.**



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**Legal Member/Chair**

**11<sup>th</sup> January 2024**

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**Date**