



**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/23/2481**

**Property : 38 Westerton Terrace, Carronshore, Falkirk FK2 8HP (“Property”)**

**Parties:**

**Michael Brown, c/o 5 Victoria Road, Grangemouth FK3 9JN (“Applicant”)**

**Rebecca Clark, 38 Westerton Terrace, Carronshore, Falkirk FK2 8HP (“Respondent”)**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Elizabeth Williams (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to make an order for possession of the Property.**

**Background**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Private Residential Tenancy Agreement which commenced on 23 October 2019; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 6 April 2023 ("Notice to Leave"); email from Taylor William, Letting Agents, to the Respondent dated 6 April 2023 attaching the Notice to Leave; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003; email from the local authority dated 2 August 2023 acknowledging receipt of the section 11 notice; affidavit of the Applicant dated 22 September 2023 and sheriff officer's execution of service certifying service of the Application on 20 December 2023.

**Case Management Discussion**

A case management discussion (“CMD”) took place before the Tribunal on 13 February 2024 by teleconference. The Applicant was in attendance. There was no appearance by or on behalf of the Respondent.

The Applicant told the Tribunal that he understood that the Respondent lives in the Property with 2 children aged approximately 10 and 16. He said the Property has 2 bedrooms. He said he understood the Respondent is employed as a hotel receptionist. He said the rent is paid timeously. He said he has not had recent contact with the Respondent.

The Applicant told the Tribunal that he has lived in Malta for 6 years but now wishes to return to Scotland where he has 2 grandchildren. He said he rents a property in Malta which is expensive. He said salaries are also lower than the UK. He said that he is employed in Malta carrying out maintenance to apartments and hotels. He said he hopes to gain employment as a joiner when he returns to Scotland.

The Tribunal noted that the ground for eviction in the Notice to Leave was ground 4A but the Application referred to grounds 1 and 1A. The Tribunal noted that no information had been provided to establish that the Applicant was suffering financial hardship. The Applicant said that he did not know why the letting agent who served the Notice to Leave had used ground 4A as opposed to ground 4. He said he wished to proceed on the basis of ground 4 alone.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the Property which commenced on 23 October 2019.
2. A Notice to Leave was served on the Respondent by email on 6 April 2023. It stated that an application for an eviction order would not be submitted to the Tribunal before 2 July 2023.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on or about 2 August 2023.
4. The Applicant is currently resident in Malta and wishes to return to Scotland.
5. The Applicant intends to live in the Property.

### **Reasons for the Decision**

In terms of section 51 of the Act, 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 applies.

In the Application the Applicant stated that he sought recovery of possession of the Property on the basis set out in Ground 1 and 1A. The Notice to Leave however

referred to ground 4A which is that the landlord intends to live in the let property to alleviate financial hardship. At the CMD the Applicant told the Tribunal that he wished to rely on ground 4 alone. The evidence lodged with the application of intention to live in the Property was an affidavit from the Applicant.

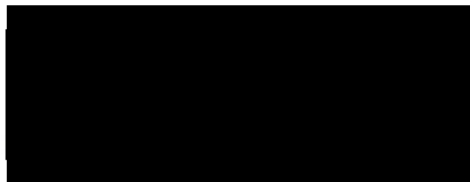
The Tribunal determined to grant permission for the Applicant to include ground 4 in the Application in terms of section 52(5)(b) of the Act. Thereafter the Tribunal considered the evidence provided and determined that the ground for eviction had been established. The Tribunal considered the oral representations of the Applicant and, in the absence of a submission from the Respondent, determined that it was reasonable to grant an order for eviction.

### **Decision**

The Tribunal determined to grant an order for possession of the Property.

### **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.**



**Joan Devine  
Legal Member**

**Date : 13 February 2024**