



**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/23/3050**

**Re: Property at The Schoolhouse, Campie Road, Musselburgh, East Lothian, EH21 6QS (“the Property”)**

**Parties:**

**Ms Melanie Beaumont and Connell & Connell Ltd as Executor of Maria Beaumont both c/o Connell & Connell Solicitors, 4/1 St Patrick Square, Edinburgh, EH8 9EZ; 10 Dublin Street, Edinburgh, EH1 3PR (“the Applicants”)**

**Mr Kevin Welsh, The Schoolhouse, Campie Road, Musselburgh, East Lothian, EH21 6QS (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member) and Angus Lamont (Ordinary Member)**

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

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

**Background**

1. By application dated 1<sup>st</sup> September 2023 the applicants seek an order for eviction, relying on ground 1 in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. The applicants lodged the following documents with the application:
  - Copy tenancy agreement
  - Letter to the respondent with Notice to Leave and Guidance
  - Affidavit of Morag McKenzie
  - Guardianship Order

- Annual accounts in respect of the guardianship for 2015-2016 and 2021-2022
  - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003 dated 17<sup>th</sup> August 2022
3. A case management discussion (“cmd”) was assigned for 20th November 2023. The applicants are represented by TC Young solicitors. Prior to the cmd the applicants’ representative submitted an application to postpone the cmd. The application had originally been brought by Melanie Beaumont and Anne Morag McKenzie as the financial guardian of Maria Beaumont – the two joint owners of the property. Maria Beaumont passed away on 2<sup>nd</sup> September 2023. The postponement was sought to allow time for executors to be confirmed and thereafter for the application to be amended to include the the executors as joint applicants. The application to postpone was granted.
  4. A further cmd was assigned for 5<sup>th</sup> February 2024. In advance of that cmd the applicants’ representative lodged proof of confirmation of the executors as Connell & Connell Ltd and an application to amend the application to show the executors as joint applicant. They also lodged updated written submissions.

#### **Case management discussion – 5<sup>th</sup> February 2024- teleconference**

5. The applicants were represented at the cmd by Ms Donnelly, solicitor of T C Young solicitors. The respondent was not present or represented. The Tribunal was satisfied that the respondent had been properly notified of the cmd and proceeded with the cmd in his absence.
6. Ms Young sought to amend the application to allow Connell & Connell Ltd as executors for the late Maria Beaumont to replace her as joint applicant. Ms Young advised that the application to amend together with the updated written submissions had been intimated to the respondent by recorded delivery and first class post on 19<sup>th</sup> January 2024. Accordingly the respondent had more than 14 days’ notice of the application to amend. The application to amend had also been intimated on the respondent by the Tribunal on 25<sup>th</sup> January 2024.
7. The Tribunal determined to allow the parties to the application to be amended as sought and to accept the amendments to the applicants’ written representations.

8. Ms Young requested that the Tribunal grant an order for eviction on the basis of ground 1 i.e. the landlord intends to sell the house. Ms Young explained that following the death of her mother, Melanie Beaumont intended to sell the property as she was unable to perform the duties of a landlord herself – due to her personal circumstances. Ms Young advised that Melanie Beaumont has had long term issues with ill health and has previously suffered from PTSD and depression . She explained that Melanie Beaumont had been in hospital since 18<sup>th</sup> December 2023 and has been diagnosed with a brain injury. Ms Young advised that a power of attorney was now in place in respect of Melanie Beaumont due to the impact of her ill health. Ms Young advised that Melanie Beaumont was not in a position to take on the role of landlord. Ms Young advised that a previous application had been raised in respect of rent arrears in the property. She explained that the monthly rent for the property was £1250. Arrears rose to £37,500. The non-payment of rent had impacted the guardian’s ability to pay the care home costs for Maria Beaumont. Ms Young advised that the arrears had been cleared at that time when the respondent’s son received £90,000 from an inheritance and repaid the debt.
9. In relation to the personal circumstances of the respondent Ms Young advised that he was 41 years old. He had been diagnosed with epilepsy. He resided with his 2 sons aged 24 and 12. Ms Young thought that the eldest son was in employment. She advised that the respondent received monthly income from benefits of £2405. She advised that there was sufficient income in the household to cover the rent due. She advised that no rent had been paid since October 2023 and arrears were currently £5,000. She submitted that the family would have sufficient funds to find alternative accommodation if required.

### **Findings in fact**

10. Parties entered in a Private Residential Tenancy agreement with a commencement date of 14<sup>th</sup> June 2019.
11. Monthly rent due in terms of the agreement is £1250.
12. The property was jointly owned by Maria Beaumont and Melanie Beaumont.
13. Maria Beaumont passed away on 2<sup>nd</sup> September 2023.

14. Connell & Connell Ground Ltd were confirmed as executors of the late Mari Beaumont.
15. Melanie Beaumont is unable to perform the duties of a landlord due to her personal circumstances and wishes to sell the property.
16. Ground 1 in schedule 3 of the 2016 Act has been established.

### **Reasons for the decision**

17. The Tribunal had regard to the application and the documents lodged by the applicants. The Tribunal also took into account oral submissions at the cmd.
18. The Tribunal took into account that the respondents had not lodged any written response to the application nor attended the cmd. The respondent had not indicated that he wished to oppose the order being granted.
19. The Tribunal accepted that due to her personal circumstances Melanie Beaumont did not wish to continue as a landlord and intended to sell the property. The Tribunal noted that the respondent resided with his two sons, aged 24 and 12. The Tribunal noted that taking into account the respondent's income from benefits, the inheritance received by the respondent's older son and his ability to earn income, the respondent would be in a position to find alternative accommodation. The Tribunal took into account that arrears accruing and were currently £5,000. The Tribunal gave weight to the fact that arrears had previously risen to £37,500 which caused significant issues for the applicants before being cleared. Having cleared the arrears, they had again begun to build up which suggested that the property was not affordable for the respondents.
20. In the foregoing circumstances the Tribunal determined that it was reasonable to grant an order for eviction.

### **Decision**

**The Tribunal determined to grant an order for eviction**

### **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.

Mary- Claire Kelly

05/02/2024

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Legal Member/Chair

\_\_\_\_\_  
Date