



**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/23/3229**

**Property : 118 Keswick Road, East Kilbride G75 8QX (“Property”)**

**Parties:**

**Lynda Wright, 59 Morven Road, Bearsden G61 3BY (“Applicant”)**

**Chelsea Bell, 118 Keswick Road, East Kilbride G75 8QX (“Respondent”)**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Melanie Booth (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to make an order for possession of the Property on the basis that execution of the order shall be delayed until 30 April 2023.**

**Background**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Private Residential Tenancy Agreement dated 30 July 2019 which commenced on 29 July 2019; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 10 June 2023 ("Notice to Leave"); copy email attaching the Notice to Leave dated 10 June 2023; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 18 September 2023; copy email from Batchelors Estate Agents dated 21 August 2023 stating they would be able to assist with marketing the Property; copy email from Abode Scotland dated 24 July 2023 providing a note of fees for selling the Property and sheriff officer's execution of service certifying service of the Application on 5 January 2024.

**Case Management Discussion**

A case management discussion (“CMD”) took place before the Tribunal on 23 February 2024 by teleconference. The Applicant was in attendance along with her husband, Stephen Wright. The Respondent was also in attendance.

Ms Bell told the Tribunal that she lives in the Property with her 7 year old daughter who attends the local school. She said she does not have a car and if her daughter had to move school she would need to use public transport to take her daughter to school. Ms Bell said that she is employed as a nurse at the Queen Elizabeth Hospital in Glasgow. She said she gets to work via a lift from a colleague. Ms Bell said that she has been actively looking for alternative accommodation in the mid-market sector and the private rented sector. She said she has also been in touch with the local authority, has a case worker and is on the housing list.

Mrs Wright said that she has a fixed rate mortgage on her own home which is coming to an end in April 2023. At that point she said her mortgage will increase by £400 per month. She said she has no mortgage on the Property. Mrs Wright said that her intention is to sell the Property and use the proceeds of sale to reduce the mortgage on her home to make it more affordable. She said that she is employed as a social worker.

As regards the question of reasonableness Ms Bell said that the current situation was very stressful. She said if she was evicted she would be homeless and may have to go into temporary accommodation. Mrs Wright said that it is 9 months since she gave notice that she wished possession of the Property. She said that since then the Respondent has not paid the rent in full and the arrears are currently £3000. Ms Bell confirmed that the arrears were £3000. She said she had retained rent to meet a deposit on a new property and the initial rent.

The tribunal noted that the only issue in dispute appeared to be whether or not it was reasonable to grant an order for eviction. Both the Applicant and the Respondent stated that they were content for the Tribunal to proceed on the basis of the information provided at the CMD.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property which commenced on 29 July 2019.
2. A Notice to Leave was served on the Respondent by email on 10 June 2023. It stated that an application for an eviction order would not be submitted to the Tribunal before 5 September 2023.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 18 September 2023.
4. The Applicant holds title to the Property and is entitled to sell the Property.

5. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

### **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 she sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell. The evidence lodged with the application of intention to sell was a copy email from Batchelors Estate Agents dated 21 August 2023 stating they would be able to assist with marketing the Property and a copy email from Abode Scotland dated 24 July 2023 providing a note of fees for selling the Property. The Tribunal considered the evidence provided as well as the oral submission from the Applicant and determined that the ground for eviction had been established.

The Tribunal considered the oral representations of the Applicant and the Respondent regarding the question of reasonableness and determined that it was reasonable to grant an order for eviction but to delay execution of the order until 30 April 2024. The Tribunal was conscious that paragraph 1 of Schedule 2 of the Cost of Living (Tenant Protection) (Scotland) Act 2022 expires on 31 March 2023. The Respondent would therefore gain little protection from the delay on enforcement of eviction orders in the 2022 Act. The Tribunal considered that a delay in enforcement would give the local authority more time to identify alternative accommodation and would reduce the risk of the Respondent and her daughter being housed in temporary accommodation.

### **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 : 23 February 2024**

Joan Devine