



**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/23/3612**

**Re: Property at 58 Meadowburn Road, Wishaw, North Lanarkshire, ML2 8LB (“the Property”)**

**Parties:**

**Mrs Angela de Britos, Mr Pablo Britos, 20 Glenburn Gardens, Whitburn, West Lothian, EH47 8NL (“the Applicants”)**

**Ms Erinnann McGowan, 58 Meadowburn Road, Wishaw, North Lanarkshire, ML2 8LB (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Helen Barclay (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Applicant from the property.**

**Background**

1. By application dated 11 October 2023 the Applicants applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant submitted a copy of a tenancy agreement, Notice to Leave, Section 11 Notice, Letter from Estate Agents together with other documents in support of the application.
2. By Notice of Acceptance dated 6 December 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 1 February 2024.

### **The Case Management Discussion**

4. A CMD was held by teleconference on 20 March 2024. The Applicants were represented by Mrs Angela de Britos. The Respondent did not attend nor was she represented. The Tribunal being satisfied that the Respondent had been given proper intimation of the proceedings determined to proceed in her absence.
5. The Tribunal noted the Respondent had commenced her tenancy of the property on 23 August 2021 at a rent of £450.00 per calendar month.
6. The Applicant confirmed that she served a Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act on the Respondent on 15 July 2023.
7. The Applicant also confirmed that she had sent a Section 11 Notice by email to North Lanarkshire Council on 15 July 2023.
8. The Applicant explained that due to increased mortgage and insurance costs together with the removal of mortgage interest relief it was no longer economic to retain the property. The Applicant went on to explain that her father-in-law who lived in Uruguay required daily care and this had to be paid for privately. The cost was about £700.00 per month and was shared between her husband and his brother. The applicant explained that they needed to realise capital from the property to meet the ongoing cost as they had no savings left.
9. The Applicant advised the Tribunal that the Respondent was a good tenant who had two young children living with her. She said that although the Applicants had other rental properties none were vacant at the moment and they could not offer the Respondent another property.

### **Findings in Fact**

10. The Respondent commenced a Private Residential Tenancy of the property on 23 August 2021.
11. A Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act was served on the Respondent on 15 July 2023.
12. A Section 11 Notice was sent to North Lanarkshire Council on 9 October 2023.
13. The Applicant intends to instruct Independent Estate Sales Limited to market the property for sale.

14. The Applicants have incurred increased mortgage, insurance and other costs for the property making it uneconomic to continue to rent out the property.
15. The Applicants require to fund the care of the Second Applicant's father in Uruguay and need to realise capital from the sale of the property for this.
16. The Respondent lives in the property with her two children.

### **Reasons for Decision**

17. The Tribunal was satisfied from the documents submitted and the oral submissions that the parties entered into a Private Residential tenancy that commenced on 23 August 2021. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 1 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to North Lanarkshire Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced and the Applicant's oral submissions that the Applicants intends to use Independent Estate Sales Limited to market the property for sale.
18. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that despite being given an opportunity to submit written representations and to attend the CMD the Respondent had chosen to do neither. Nevertheless, the Tribunal still had to consider whether in the circumstances it was reasonable to grant the order sought. The Tribunal therefore had to balance the needs of the Applicants with the needs of the Respondent in arriving at a decision. On the one hand there was the Applicants who due to the increased costs associated with the property considered that it was no longer economically viable to continue to rent it out when at the same time they had exhausted their savings providing care for the Second Applicant's father in Uruguay. On the other hand, there was no criticism of the Respondent as a tenant and she had two young children living with her. In the circumstances given the lack of participation in the proceedings from the Respondent and the quite compelling explanation from the Applicant as to the reasons for wishing to sell the property, the Tribunal was satisfied that it was reasonable to grant the order sought.

## **Decision**

19. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for the eviction of the Respondent from 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.**

**Graham Harding  
Legal**

**20 March 2024  
Date**