



**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 (“the 2016 Act”)**

**Chamber Ref: FTS/HPC/EV/23/4111**

**Re: Property at 5/2 Portland Gardens, The Shore, Edinburgh, EH6 6NQ (“the Property”)**

**Parties:**

**Ms Christine McKechnie, Ayton East Lodge, Aberargie, PH2 9LX (“the Applicant”)**

**Ms Laura Intably, 5/2 Portland Gardens, The Shore, Edinburgh, EH6 6NQ (“the Respondent”)**

**Tribunal Members:**

**Graham Dunlop (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction in terms of section 51 of the 2016 should be granted as the respondent no longer sought to oppose the application**

**Background**

1. The applicant sought an eviction order in terms of section 51 and paragraphs 1 or 1A of the 2016 Act. The application was initially opposed by the respondent. Opposed as more fully discussed below.
2. The application called for a Case Management Discussion (“CMD”) on 8<sup>th</sup> March 2024. At the CMD the applicant was represented by Mr Gordon of Thorntons. The respondent was represented by Mr Wilson of Community Help & Advice Initiative.

3. As the Note of the CMD identifies the applicant's primary position is that she is suffering financial hardship and requires to sell the property to alleviate that hardship. The applicant has previously submitted various documents which she has done in support of her position including details of monthly income and expenditure. At the earlier CMD the respondent's opposition principally focussed on: (i) a knee injury or condition, and (ii) the reasonableness of seeking to sell the property with vacant possession as opposed to selling the property with a tenant.
4. At the CMD the Tribunal ordered parties to lodge submissions and supporting documents to be presented at the Hearing fixed for 3 April 2024 at 10am

### **The Hearing**

5. Within the timescales set by the Tribunal the applicant's legal representative lodged detailed submissions. The submissions included independent evidence on the sale price of the property with and without a tenant i.e. with and without vacant possession. The respondent also lodged independent medical information.
6. Prior to the hearing the respondent had been represented by Community Help and Advice Initiative ("CHAI"). At the CMD the representative of CHAI had been quite firm in the requirement for a hearing to present a range of evidence. Regrettably CHAI did not make timeous representations on behalf of the applicant other than a short statement containing the bald statement that "*It is not reasonable to evict. Vacant possession is not required to sell the property.*". Similarly CHAI did not lodge any documents. The Tribunal makes no criticism of the respondent who understandably had relied on CHAI.
7. The respondent represented herself at the hearing and lodged submissions albeit late. The Tribunal are grateful for the work put into the preparation of the submissions by both parties although it was not necessary to examine them in detail as the respondent confirmed that she had found a suitable new property which it was intended she would take entry to later this month. In the circumstances the respondent confirmed in writing and at the hearing that the eviction order was not being opposed.
8. There followed some discussion about the particular date that the respondent hoped to leave the property. The Tribunal makes the eviction order but notes that the parties will endeavour to agree a mutually acceptable date when the respondent will vacate the property prior to the eviction order becoming enforceable.

### **Reasons for Decision**

9. The respondent having withdrawn her opposition to the eviction order and the respondent still insisting on the order (notwithstanding the respondent being

about to sign a tenancy for a new property) the order was granted by the Tribunal.

### **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**

**3<sup>rd</sup> April**

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**Date**