



**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/23/3668**

**Property: 0/2, 61 Merryland Place, Glasgow G51 2NA (“Property”)**

**Parties:**

**Stuart Macdonald, Residence Amusa C21, Via Degli Angioni, Marina di Caulonia (RC) 89040, Italy (“Applicant”)**

**Debbie Kelly, 0/2, 61 Merryland Place, Glasgow G51 2NA (“Respondent”)**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Ahsan Khan (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: Tenancy Agreement which commenced on 24 February 2018; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (“Act”) dated 8 July 2023 (“Notice to Leave”); Royal Mail proof of delivery of the Notice to Leave on 12 July 2023; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 18 October 2023; copy specification of works for the Property dated 21 October 2022 and sheriff officer's execution of service certifying service of the Application on 16 February 2024.

**Case Management Discussion**

A case management discussion (“CMD”) took place before the Tribunal on 27 March 2024 by teleconference. The Applicant was in attendance. There was no appearance by the Respondent. The Applicant told the Tribunal that he had not had recent contact with the Respondent. He had last been in contact with her a month ago. He said he understood she lived in the Property alone. He said that a couple of years previously

there had been a leak at the Property. Attempts had been made to get to the bottom of the problem. The Applicant said that extensive works required to be done in order to deal with the damp in the Property. He said the floors needed to be uplifted, the Property dry out and the floors replaced. He said that it was his intention to put the Property on the market within 3 months of obtaining possession but that would depend on how long it took for the works to be completed. The Applicant said he understood the Respondent had been looking for alternative accommodation but had not yet been successful. The Applicant said he is aged 65 and owns two other rental properties.

### **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 24 February 2018.
2. A Notice to Leave was served on the Respondent by recorded delivery post on 12 July 2023. It stated that an application for an eviction order would not be submitted to the Tribunal before 20 October 2023.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 18 October 2023.
4. The Applicant holds title to the Property and is entitled to sell the Property.
5. The Applicant intends to refurbish the Property.
6. 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 he sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell and ground 3 which is that the landlord intends to refurbish the let property. The evidence lodged with the application of intention to refurbish was a specification for extensive works to the Property dated 21 October 2022. The Tribunal considered the evidence provided and determined that the grounds 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: 27 March 2024**