



**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/24/0138**

**Re: Property at 63 Willow Grove, Livingston, EH54 5NA (“the Property”)**

**Parties:**

**Mr George Okocha, 37 Old Gold Course Road, Armadale, Bathgate, EH48 2TA (“the Applicant”)**

**Ms Zuzanna Buchoic, 63 Willow Grove, Livingston, EH54 5NA (“the Respondent”)**

**Tribunal Members:**

**Rory Cowan (Legal Member) and Leslie Forrest (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Eviction Order should be granted, but that enforcement of same should be delayed for 2 months.**

- Background

By application dated 8 January 2024 (the Application), the Applicant sought an eviction order relative to the Property in terms of section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (2016 Act). With the Application, the Applicant, lodged the following:

- 1) Lease dated 30 December 2022;
- 2) Copy Notice to Leave dated 10 October 2023;
- 3) Section 11 Notice; and
- 4) Copy letter dated 14 September 2023 from Mortgage Express.

Following requests for further information, the Applicant stated that the Notice to Leave was served by way of hand delivery to the Respondent and that he need the Property to be empty to sell it. Following acceptance of the Application, a Case

Management Discussion (CMD) was fixed for 4 June 2024 to be heard by way of conference call to call and the Application served on the Respondent. In advance of the CMD, the Respondent confirmed her intention to appear and requested a translator (Polish) be made available.

- The Case Management Discussion

At the CMD, the Applicant appeared and represented himself. The Respondent also appeared and with the aid of the translator (Ms Fasula) represented herself. After discussion, the Applicant confirmed that he was no longer seeking an Eviction Order under Ground 1A and would therefore focus on Ground 1. He confirmed that he had spoken to Estate Agents and that he was seeking possession to allow the sale of same as he was unable to continue subsidising the occupation of the Property with the rent he was able to achieve being lower than the cost of his mortgage for the Property. He stated that he had hand delivered the Notice to Leave (NTL) to the Respondent on 11 October 2023.

The Respondent confirmed that she had received the NTL as described by the Applicant and that she understood the Applicant's position and did not wish to oppose the Application. She explained that she had not found somewhere else to live as yet but had been in discussion with her local authority regarding social housing for her and her 4 children. She understood that she could not proceed further with that until or if an Eviction Order was granted. She stated that she had 4 children aged 18, 12, 5 and 2 years. Her 5 year old was autistic and she did not work as she was the main carer for her. The Property was a 3 bedroom house and due to her 5 year old daughter's condition, she required her own bedroom meaning that the Respondent and her youngest child had to sleep in the living room whilst the other 2 children had their own bedroom. The Respondent described the Property as having small rooms and not being that suitable for her and her children and that she hoped that more suitable accommodation could be found for her.

- Findings in Fact and Law

- 1) The Applicant and Respondent entered into a Private Residential Tenancy for the Property which commenced on 30 December 2022.
- 2) By Notice to Leave dated 10 October 2023 and hand delivered to the Respondent on 11 October 2023 the Applicant gave notice to the Respondent of his intention to recover possession of the Property in terms of Ground 1 of the Private Housing (Tenancies)(Scotland) Act 2016 and confirmed that proceedings would not be raised before 4 January 2024.
- 3) The Notice to Leave was in the prescribed format.
- 4) That the Applicant intends to sell the Property or at least put it up for sale within 3 months following the Respondent vacating same.
- 5) That the Applicant has complied with all notice requirements in terms of the Private Housing (Tenancies)(Scotland) Act 2016 and that Ground 1 of Schedule 3 has been made out.
- 6) That the rent paid by the Respondent for the Property is £600 per month whereas the Applicant's mortgage payments are £839.45 per month.
- 7) That the Respondent lives at the Property with her 4 children aged 18, 12, 5 and 2 years.

- 8) That her 5-year-old daughter has autism and needs her own bedroom.
- 9) That the Respondent and her youngest child sleep in the living room of the Property and the other children sleep in their own bedroom.
- 10) That the Property has not been adapted for the Respondent or her family.

- Reasons for Decision

The Applicant sought an Eviction Order in order to sell the Property. The NTL complied with all legislative requirements and the Application was submitted in proper form. The Respondent indicated that she did not oppose the Application. In the circumstances, the requirements of Ground 1 of the 2016 Act being met and the Respondent consenting to the Order being granted there was no basis for finding that it would not be reasonable to grant the order, the Tribunal therefore resolved to grant the Application. Notwithstanding, the Tribunal resolved to order a delay in the enforcement of the Eviction Order under Rule 16A(d) for a period of 2 months from the date of grant to allow further time for the Respondent to engage with the relevant local authority to secure suitable alternative accommodation.

- Decision

That an Eviction Order relative to the Property should be granted, but that enforcement of same be delayed for a period of 2 months from the date of grant of the order.

### **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.**

# Rory Cowan

Legal Member/Chair

\_\_\_\_\_ 4 June 2024 \_\_\_\_\_  
Date