



**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 Act”)**

**Chamber Ref: FTS/HPC/EV/24/1525**

**Re: Property at 23A Ferry Street, Montrose, DD10 8DA (“the Property”)**

**Parties:**

**Mr Mark Jobson, 38 Invergarry Park, St. Cyrus, MONTROSE, DD10 0BU (“the Applicant”)**

**Miss Danielle Beedie, Miss Natasha Davidson, 23A Ferry Street, Montrose, DD10 8DA (“the Respondents”)**

**Tribunal Members:**

**Susan Christie (Legal Member) and John Blackwood (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession should be granted against the Respondents in favour of the Applicant.**

**Background**

1. The application made by the Applicant is for an order for possession of the Property under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, Ground 4 of Schedule 3 of the Act. It was accepted by a legal member of the tribunal on 29 April 2024.
2. The Applicant produced along with the application copy Private Residential Tenancy (‘PRT’); Notice to Leave and accompanying reasons and correspondence to the Respondents; a section 11 Notice in terms of the Homelessness Etc. (Scotland) Act 2003 which had been served on the relevant local authority, and screen prints of text exchanges between the Parties.
3. The paperwork was served by the Tribunal on the Respondents and the proper intimations were sent to the Parties assigning a Case Management Discussion.
4. No written Representations were submitted from the Respondents.

## **The Case Management Discussion**

5. The Case Management Discussion (CMD) took place on 10 July 2024 by Conference call. Only the Applicant participated.
6. The Tribunal had sight of Sheriff Officer's executions of service dated 7 June showing that the Second Named Respondent had been served with two sets of papers addressed to the Respondents from the Tribunal. Those contained of the copy application and accompanying paperwork together with details as to how to join the CMD conference call. The Tribunal was satisfied that the Respondents were aware of the terms of the application and had been informed how to participate in the CMD and decided to proceed in the absence of the Respondents. In addition, the Applicant stated that he had kept in regular communication with the Respondents directly. He stated that neither could attend today.
7. The reason for the CMD was explained and the paperwork produced was examined and discussed.
8. The Tribunal was satisfied that valid Notices to Leave had been served on the Respondents and noted the amicable exchanges of texts between the Parties following on from that.
9. The Applicant explained to the tribunal: -  
The Applicant is the owner of the Property. He bought it on 20 June 2018. The Private Residential Tenancy ('PRT') between the parties began on 1 May 2019. Since then the Parties have had an excellent landlord/ tenant relationship. The Applicant has since become self- employed in telecoms and has been working under a contract since February last year. He lives with his parents and intended to save and look to buy. However, given his current job role he needs a larger deposit. He and his girlfriend are looking into moving into a property together at some point. In the intervening period it will take too long for him to try to raise a deposit himself and is unlikely to obtain a mortgage due to his very recent contract status. He wishes to move out of his parents' home. He is looking to recover the Property to live in as his principal home for the foreseeable future. He had spoken to the Respondents, and they were looking to secure alternative accommodation themselves.
10. The Applicant was advised that the matter could be determined at the CMD without a Hearing and could decide where there appeared to be no contentious issues that needed to be resolved. He understood this and did not identify any issues in dispute. The tribunal adjourned for a period to deliberate and then reconvened the CMD.

## **Findings in Fact**

11. The Applicant is the owner and Landlord of the Property.
12. The Parties entered into a Private Residential Tenancy over the Property with a date of entry of 1 May 2019.
13. The Applicant served valid Notices to Quit on the Respondents. At the same time, he provided them with reasons for it.
14. A section 11 Notice in terms of the Homelessness Etc. (Scotland) Act 2003 was served on the relevant local authority.

15. The Applicant wishes to recover the Property for his own occupation and as his principal home for the foreseeable future and exceeding 3 months in duration.
16. The Applicant is living in his parents' home.
17. The Applicant is self-employed and is currently unable to secure a second mortgage in his own right.
18. The Respondents have made no representations to the Tribunal in response to the application.

### **Reasons for Decision**

25. The legislation-

### **Section 51. First-tier Tribunal's power to issue an eviction order**

- (1) The First-tier 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.
- (2) The provisions of schedule 3 stating the circumstances in which the Tribunal may .. find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.
- (3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.
- (4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

### **Landlord intends to live in property-Ground 4**

- (1) It is an eviction ground that the landlord intends to live in the let property.
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
  - (a) the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months, and
  - (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
- (3) References to the landlord in this paragraph—
  - (a) in a case where two or more persons jointly are the landlord under a tenancy, are to be read as referring to any one of them,
  - (b) in a case where the landlord holds the landlord's interest as a trustee under a trust, are to be read as referring to a person who is a beneficiary under the trust.
- (4) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the landlord has that intention.

26. The Tribunal was satisfied at the CMD that it had sufficient information upon which to do so and would not prejudice the interest of the Parties. The Tribunal did not consider that a Hearing was needed as there were no controversial matters to be resolved.
27. A valid Notice to Leave had been served. The Ground on which the Applicant sought recovery was satisfied.
28. Intimation of the application had been made on the relevant local authority by way of a Section 11 Notice, as required.
29. The Tribunal determined that Ground 5 is established based on the oral representations of the Applicant and in the absence of the participation and any opposing representations by the Respondents.
30. The Tribunal then considered whether it was reasonable to grant an eviction order. The Tribunal accepted the Applicant's reason given for the making of the Application and had the benefit of him providing his information directly and the reasons he gave were logical and thought through. The tribunal noted from the text exchanges produced, that relations between the Parties appeared to be amicable. The Tribunal was advised that the Respondents were in the process of seeking alternative accommodation. The Tribunal determined that having regard to the representations made and in the absence of any opposing position, that to grant the order was reasonable.
31. The Tribunal therefore determined to make an eviction order. The decision of the tribunal is unanimous.

### **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.**

# Susan Christie

Legal Member/Chair

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10 July 2024  
Date