



**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/24/0665**

**Re: Property at 20 McCourt Gardens, Bellshill, North Lanarkshire, ML4 1QB (“the Property”)**

**Parties:**

**Mr Francis McNutt, 1 Dalmoak Stable Cottages, Dumbarton, West Dunbartonshire, G82 4HQ (“the Applicant”)**

**Mr Shaun Emonds, 20 McCourt Gardens, Bellshill, North Lanarkshire, ML4 1QB (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Ann Moore (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.**

**Background**

1. The Applicant submitted an application under Rule 109 for an order to evict the Respondent from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 17 May 2024 informing both parties that a CMD had been assigned for 24 June 2024 at 2pm, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers

the procedure to have been fair. The Respondent was invited to make written representations by 7 June 2024. No written representations were received.

### **The case management discussion**

4. The CMD took place by conference call. The Applicant joined the call and represented himself. The Respondent did not join the conference call and the discussion proceeded in his absence. The Tribunal explained the purpose of the CMD. The Applicant explained that he discussed with the Respondent his need to move back into the Property. The Respondent asked him to expedite the process so that he could apply for social housing. On the basis of that discussion, the Applicant served the Notice to Leave and marketed his own property for sale. His own property has now sold and he is due to move out on Thursday 27 June 2024. The Applicant tried to contact the Respondent around 6 weeks ago but did not receive a response. The Applicant sent the Respondent details of comparable properties for rent, but received no response. The Respondent has not paid rent for a few months and the arrears of rent now amount to £2,200. The Respondent is believed to be in employment and does not have any dependents.
5. The Tribunal adjourned briefly to consider the information provided by the Applicant. The Tribunal explained that it found the ground of eviction established and that it was reasonable to grant the order.

### **Findings in Fact**

6. The parties entered into a private residential tenancy which commenced 3 July 2020.
7. The Applicant served Notice to Leave on the Respondent by email on 31 October 2023.
8. The Applicant intends to live in the Property.

### **Reason for Decision**

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicant relied upon ground 4 of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondent did not lodge any written representations and did not participate in the CMD. The Applicant had tried to assist the Respondent in identifying alternative accommodation but the Respondent did not engage with him. The Respondent has also incurred rent arrears and has not made any proposals to pay. It appears to the Tribunal that the tenancy may not be affordable by the Respondent. The Tribunal was satisfied that ground 4 had been established and that it was reasonable to grant the order sought.

## 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.

# N Irvine

\_\_\_\_\_ 24 June 2024 \_\_\_\_\_

Date