



**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/24/0683**

**Re: Property at 30 Old Polmadie Road, Oatlands, Glasgow, G5 0AB (“the Property”)**

**Parties:**

**Dr Shwan Dyllon, 17 Neckinger Estate, London, SE16 3QH (“the Applicant”)**

**Mr Alam Khan, Miss Umma Salma, 30 Old Polmadie Road, Oatlands, Glasgow, G5 0AB (“the Respondents”)**

**Tribunal Members:**

**Fiona Watson (Legal Member) and Gordon Laurie (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondents for eviction of the Respondents from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.**

- Background
  1. An application was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondents on the basis of the Applicant’s intention to sell the Property, being Ground 1 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).
- Case Management Discussion
  2. A Case Management Discussion (“CMD”) took place on 9 August 2024. The Applicant was represented by Mr McTigue of Jackson Boyd Lawyers. The first-

named Respondent, Mr Khan, appeared personally and represented both Respondents.

3. The Applicant's representative moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement ("the Agreement"), which commenced 5 March 2019. The Applicant intended to sell the Property and required vacant possession in order to do so. The Applicant resides in London and wishes to sell the Property in order to realise the equity within the Property to repay his mortgage on the property he resides in, as well as pay off part of the mortgage against a property he rents out in London. The Applicant previously used a letting agent to manage the Property but the relationship deteriorated. He does not wish to continue to rent out property in Scotland. The Property is his only remaining property in Scotland. A Notice to Leave had been served on the Respondent on the basis of Ground 1 of Schedule 3 to the 2016 Act, on 9 November 2023.
4. The first-named Respondent submitted that he resides in the Property with his wife and two children aged 13 and 7 years. They attend school locally. He has made a number of attempts to obtain suitable alternative accommodation but this has been unsuccessful. He is on a housing waiting list for housing associations and the local authority. He has been advised that if an eviction order is granted, this may improve his chances of being rehoused in the shorter term. The first-named Respondent submitted that none of his family suffer from any health difficulties or vulnerabilities.
5. The following documents were lodged alongside the application:
  - (i) Copy Private Residential Tenancy Agreement
  - (ii) Copy Notice to Leave
  - (iii) Proof of service of the Notice to Leave by recorded delivery
  - (iv) Section 11 notification to the local authority under the Homelessness etc. (Scotland) Act 2003
  - (v) Documentation from Keller Williams confirming instruction re appraisal of the Property for marketing for sale
  - (vi) Affidavit by the Applicant.

- Findings in Fact

6. The Tribunal made the following findings in fact:
  - (i) The parties entered into a Private Residential Tenancy Agreement which commenced on 5 March 2019;
  - (ii) The Applicant is the heritable proprietor of the Property;
  - (iii) The Applicant is entitled to sell the Property;
  - (iv) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 1 of Schedule 3 to the 2016 Act;
  - (v) The Applicant has provided a letter of engagement from an estate agent regarding the marketing of the Property.

- Reasons for Decision
7. The Tribunal was satisfied that the terms of Ground 1 of Schedule 3 to the 2016 Act had been met, namely that the Applicant intends to sell the property and intends to do so within 3 months of the Respondents ceasing to occupy it. The Tribunal was satisfied that a Notice to Leave had been served on the Respondents and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act. The Tribunal was satisfied that it was reasonable in the circumstances to grant the order. This is the only property owned by the Applicant located in Scotland. He no longer wishes to be involved in the Scottish rental market. He requires the equity from the Property to pay off his mortgage in London. The Tribunal hoped that the granting of an eviction order may increase the chances of the Respondents being rehoused. The Tribunal considered that under the circumstances, and given there was no fault on the part of the Respondents, that extract of the order should be superseded for two months, to give a longer period of time for alternative accommodation to be found.
- Decision
8. The Tribunal granted an order against the Respondents for eviction of the Respondents from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

### **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.**

**Fiona Watson**

**Legal Member/Chair**

**Date: 9 August 2024**