



**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/23/4332**

**Re: Property at 2/2 84 Westmoreland Street, Glasgow, G42 8LQ (“the Property”)**

**Parties:**

**Bank of Scotland plc, The Mound, Edinburgh, EH1 1YZ (“the Applicant”)**

**Gianina Florian, 2/2 84 Westmoreland Street, Glasgow, G42 8LQ (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member) and Sandra Brydon (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction should be granted.**

**Background**

1. On 4<sup>th</sup> December 2023 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 2 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the Act”).
2. Lodged with the application were: -
  - i. Copy Private Residential Tenancy Agreement showing a commencement date of 18<sup>th</sup> January 2022;
  - ii. Copy Decree for possession from Glasgow Sheriff Court dated 1<sup>st</sup> September 2022;
  - iii. Copy Notice to Leave dated 21<sup>st</sup> July 2023;
  - iv. Copy proof of service;
  - v. Section 11 Notice and proof of service;

3. The Application was served on the Respondent by Sheriff Officers on 17<sup>th</sup> June 2024.
4. On 23<sup>rd</sup> July 2024 the Tribunal received an email from Miss McBride of Govanhill Law Centre confirming that she would be representing the Respondent.

### **Case Management Discussion**

5. The Case Management Discussion (“CMD”) took place by teleconference. The Applicant was represented by Miss Neep of TLT, Solicitors. The Respondent was represented by Miss McBride of Govanhill Law Centre.
6. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules.
7. Miss Neep advised the Tribunal that parties had been in discussion, and they were agreed that the eviction order should be granted, but that the date for eviction should not be before 25<sup>th</sup> October 2024. Miss McBride confirmed that this was an agreed position.
8. As the parties had reached agreement the Tribunal granted the order.

### **Findings in Fact**

- a. The Respondent entered into a Private Residential Tenancy Agreement with Shahid Iqbal in respect of the property;
- b. The tenancy commenced on 18<sup>th</sup> January 2022
- c. Shahid Iqbal was the owner of the property;
- d. Shahid Iqbal granted a security over the property to the Applicant;
- e. The Applicant obtained a decree for possession of the property at Glasgow Sheriff Court on 1<sup>st</sup> September 2022;
- f. A Notice To Leave, dated 21st July 2023, was served timeously and correctly;
- g. A section 11 notice was served on the local authority;
- h. The Application was served on the Respondent by Sheriff Officer on 17<sup>th</sup> June 2024;

### **Reasons for Decision**

9. It is usually mandatory to grant an application under Ground 2 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 provided that notices have been served correctly. However, Section 43 of Coronavirus (Recovery and Reform) (Scotland) Act 2022 amended the legislation as follows:

## **Private residential tenancies: discretionary eviction grounds**

*(1)The Private Housing (Tenancies) (Scotland) Act 2016 is modified as follows.*

*(2)In section 51(2) (First-tier Tribunal’s power to issue an eviction order), the words “or must” are repealed.*

*(3)In schedule 3 (eviction grounds)—*

*(a)in paragraph 1(2) (landlord intends to sell)—*

*(i)in the opening words, for “must” substitute “may”,*

*(ii)after paragraph (a), the word “and” is repealed,*

*(iii)after paragraph (b) insert “, and*

*“(c)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,*

*(b)in paragraph 2(2) (property to be sold by lender)—*

*(i)in the opening words, for “must” substitute “may”,*

*(ii)after paragraph (b), the word “and” is repealed,*

*(iii)after paragraph (c) insert “, and*

*“(d)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,*

*(c)in paragraph 3(2) (landlord intends to refurbish)—*

*(i)in the opening words, for “must” substitute “may”,*

*(ii)after paragraph (b), the word “and” is repealed,*

*(iii)after paragraph (c) insert “, and*

*“(d)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,*

*(d)in paragraph 4(2) (landlord intends to live in property)—*

*(i)for “must” substitute “may”,*

*(ii)the words from “the landlord” to “3 months” become paragraph (a),*

*(iii)after paragraph (a) insert “, and*

*“(b)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.”,*

*(e)in paragraph 6(2) (landlord intends to use for non-residential purpose)—*

*(i)for “must” substitute “may”,*

*(ii)the words from “the landlord” to “home” become paragraph (a),*

*(iii)after paragraph (a) insert “, and*

*“(b)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.”,*

*(f)in paragraph 7(2) (property required for religious purpose)—*

*(i)in the opening words, for “must” substitute “may”,*

*(ii)after paragraph (b), the word “and” is repealed,*

*(iii)after paragraph (c) insert “, and*

*“(d)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,*

*(g)in paragraph 8 (not an employee)—*

*(i)in the opening words of sub-paragraph (2), for “must” substitute “may”,*

*(ii)for sub-paragraph (2)(c) substitute—*

*“(c)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,*

*(iii)sub-paragraph (3) is repealed,*

*(iv)in sub-paragraph (4), for “sub-paragraphs (2) and (3)” substitute “sub-paragraph (2)”,*

*(h)in paragraph 10(2) (not occupying let property)—*

*(i)in the opening words, for “must” substitute “may”,*

*(ii)after paragraph (a), the word “and” is repealed,*

*(iii)after paragraph (b) insert “, and*

*“(c)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,*

*(i)in paragraph 12 (rent arrears), sub-paragraph (2) is repealed,*

*(j)in paragraph 13(2) (criminal behaviour)—*

*(i)in the opening words, for “must” substitute “may”,*

*(ii)after paragraph (a), the word “and” is repealed,*

*(iii)after paragraph (b) insert “, and*

*“(c)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,*

*(k)in paragraph 14(2) (anti-social behaviour), after paragraph (b), for “and” substitute—*

*“(ba)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact,*  
*and”.*

10. The Tribunal was satisfied that the Applicant had established Ground 2, and, as the parties had reached agreement, the Tribunal was satisfied that it was reasonable to grant 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.

**A. Kelly**

**25/07/2024**

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Legal Member/Chair

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Date