



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

**Chamber Ref: FTS/HPC/EV/24/1619**

**Property at 25 Terrace Street, Kirkcaldy, Fife, KY1 2YD (“the Property”)**

**Parties:**

**Miss Leanne Birrell, 13 Laing Park, Wallyford, Musselburgh, EH21 8GW (“the Applicant”)**

**Miss Cara Bonellie, 25 Terrace Street, Kirkcaldy, Fife, KY1 2YD (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (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 against the Respondent in favour of the Applicant.**

**Background**

1. The Applicant seeks an eviction order in terms of Section 51 and Ground 1 of schedule 3 of the 2016 Act. A copy of the application was served on the Respondent and the parties were notified that a CMD would take place on 9 September 2024 at 2pm.
2. The CMD took place on 9 September 2024. The Applicant participated and was represented by Mr Livingston. The Respondent also participated.

**Summary of Discussion**

3. Ms Bonellie told the Tribunal that she has applied to be re-housed by the Local Authority and was advised that she would not be a priority until an eviction order is granted. She would prefer to be housed by the Council rather than remaining in her present accommodation. She said that she has two children, aged 12 and 9. She is in touch with the homelessness team at the Council and told to

contact them as soon as an order is granted. She is aware that she might have to move to temporary accommodation initially but is prepared to do that.

4. Ms Birrell told the Tribunal that she purchased the property in 2014 and lived there until 2017. She went to work overseas in 2017 and decided to let the property while she was away. She returned in March 2023. She had planned to move back to the property at some point but was unable to obtain a teaching post in the area and took a job East Lothian. She has now purchased a property there as it is too far to commute from Kirkcaldy. Ms Birrell said that she had not planned to be a landlord when she bought the property. Her parents looked after things when she was abroad but its not reasonable to expect them to do so now. She finds the admin and costs associated with being a landlord a burden and inconvenience, especially as she is no longer living in the area. The property is the only one she owns apart from her new home. Ms Birrell told the Tribunal that she has been in contact with the selling agent. However, she will have to get some work carried out before the property will be ready to go on the market.

### **Findings in Fact**

5. The Applicant is the owner and landlord of the property.
6. The Respondent is the tenant of the property. She resides there with two children.
7. The Applicant wishes to sell the property as she no longer wants to be a landlord.
8. Following a period of time working overseas, the Applicant has settled in East Lothian and purchased a property there.
9. The Respondent has applied for housing from the Local Authority. She expects to be offered accommodation by them if an eviction order is granted. She would prefer to rent from the Local Authority than continue to reside in the property.
10. The Applicant served a Notice to leave on the Respondent 1 November 2023.

### **Reasons for Decision**

11. The application was submitted with a Notice to Leave dated 1 November 2023 together with a copy of an email to the Respondent which establishes that the Notice was sent to her on the same date. The Notice states that an application to the Tribunal is to be made on ground 1, landlord intends to sell the let property.

12. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice which was sent to the Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
13. Section 51(1) of the 2016 Act states, “The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.”
14. Ground 1 of schedule 3 (as amended) states, “ (1) It is an eviction ground that the landlord intends to sell the let property. (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord – (a) is entitled to sell the let property, (b) intends to sell it for market value or at least put it up for sale within 3 months of the tenant ceasing to occupy it, and (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”
15. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Applicant intends to sell the property and that ground 1 is established.
16. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -
  - (a) The Applicant intends to sell the property as she no longer wants to be a private landlord and has moved away from the area in which the property is located.
  - (b) The Respondent would prefer to be housed by the Local Authority and does not oppose the application.
17. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act and that ground 1 has been established. For the reasons outlined in paragraph 16, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

## **Decision**

18. The Tribunal determines that an eviction order should be granted against the Respondent.

## **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.**

**Josephine Bonnar, Legal Member**

**9 September 2024**

**Josephine Bonnar**

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