



**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/24/0674**

**Re: Property at 63 Dalcraig Crescent, Dundee, DD4 7QX (“the Property”)**

**Parties:**

**Mr Philip Rogers, 27 Camperdown Road, Dundee, DD5 3AA (“the Applicant”)**

**Mr Barry Hendry, 63 Dalcraig Crescent, Dundee, DD4 7QX (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member) and Elaine Munroe (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be determined without a Hearing and issued an Eviction Order against the Respondent.**

**Background**

1. By application dated 9 February 2024, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 1 of Schedule 3 to the 2016 Act, namely that the landlord intends to sell the Property.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties commencing on 31 January 2022 at a rent of £580 per month, and a Notice to Leave dated 10 October 2023 advising the Respondent that an application to the Tribunal under Ground 1 would not be made before 5 January 2024, and an Agency Agreement with Slater Hogg & Howison, estate agents, Dundee, regarding the proposed sale of the Property.
3. On 2 July 2024, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 23 July 2024. The Respondent did not make any written

representations to the Tribunal, but on 6 August 2024, his mother, Michelle Gallacher, provided the Tribunal with information to the effect that the Respondent was not well enough to attend the Case Management Discussion. She provided a mandate, authorising her to act on his behalf, signed by the Respondent on 6 August 2024. Mrs Gallacher provided sensitive information regarding her son's health and stated that his instructions were that he did not oppose the application and that, in the interests of justice, he wished the application to be dealt with in his absence.

### **Case Management Discussion**

4. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 8 August 2024. The Applicant was represented by Mr Alex Campbell, of Cambell Boath, solicitors, Stirling, and the Respondent was represented by his mother.
5. The Respondent's mother told the Tribunal that it was in the Respondent's best interests for the application to be granted. His health had been impacted by the situation and she had been advised that support for him would not be available until an Eviction Order was made against him. She wished, however, to be assured that this would be a "no fault" eviction. The Tribunal confirmed that would be the case.
6. The Applicant's representative told the Tribunal that the Applicant was planning for retirement. He had already sold his other investment property.

### **Reasons for Decision**

7. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
8. Section 51 of the 2016 Act states that the 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 to the 2016 Act applies. Ground 1 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the landlord intends to sell the let property and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell and 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 the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts. Ground 1 goes on to state that evidence tending to show that the landlord has that intention includes (for example) a letter of engagement from a solicitor or estate agent concerning the sale, or a recently prepared Home Report.
9. The Tribunal was satisfied from the evidence provided, namely the Agency Agreement of 8 October 2023, that the Applicant intends to sell the Property. Accordingly, the only matter for the Tribunal to decide was whether it would be reasonable to issue an Eviction Order.

10. The Tribunal noted in particular the health information regarding the Respondent and the fact that it was considered to be in his best interests to have an Eviction Order issued and that he did not oppose the Order sought.
11. Having considered carefully all the evidence before it, the Tribunal decided that it would be reasonable to issue an Eviction Order. The Tribunal stressed that the Respondent was not in any way at fault, the only reason for the application being the Applicant's desire to sell the Property.

### **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.**

George Clark

Legal Member/Chair

8 August 2024  
Date