



**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/24/0555**

**Re: Property at 80 James Street, Motherwell, ML1 3JP (“the Property”)**

**Parties:**

**Mr Colin McCrickard, c/o Zone Letting, 1st Floor, 18 Woodside Place, Glasgow, G3 7QL (“the Applicant”)**

**Mrs Donna Marie Moxen, Mr Andrew Jarvie, 80 James Street, Motherwell, ML1 3JP; 80 James Street, Motherwell, ML1 3JP (“the Respondents”)**

**Tribunal Members:**

**Richard Mill (Legal Member) and Tony Cain (Ordinary Member)**

**Decision**

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

Introduction

This is an application under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The application seeks an eviction order.

Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the respondents by Sheriff Officers on 2 August 2024.

The CMD took place by teleconference on 5 September 2024 at 2.00 pm. The applicant was represented by Mr Scott MacKinnon of Zone Letting Ltd. The respondents both joined personally and represented their own interests.

## Findings and Reasons

The property is 80 James Street, Motherwell ML1 3JP. The applicant is Mr Colin McCrickard who is the heritable proprietor of the property and the registered landlord. The respondents are Mrs Donna Marie Moxen and Mr Andrew Jarvie who are the tenants.

The parties entered into a private residential tenancy in respect of the property which commenced on 28 October 2020. The rent was agreed at £550 per month.

The applicant relies upon ground 1 contained within part 1, schedule 3 to the 2016 Act. This specifies that it is an eviction ground where the landlord intends to sell the let property.

The relevant notice period under ground 1 at the time that the notice to leave was served was 84 days. The notice to leave relied upon in this case is dated 4 September 2023 and stipulates that the earliest an application be submitted to the tribunal would be 30 November 2023. A notice to leave was served on each of the respondents by email on 4 September 2023 which is evidenced. The notices to leave, served upon the respondents and relied upon in this application are valid. The required notice period was provided.

The intention to sell is evidenced by the production of an email from the applicant to his agent asking for the respondents to be evicted to enable him to sell it. This documentary evidence is not challenged. The tribunal was satisfied on the basis of this evidence produced that it is the applicant's intention to sell the let property.

The tribunal proceeded to consider the issue of reasonableness on the making of an eviction order. The tribunal weighed up the respective circumstances and needs of the parties.

The respondents are both in full time employment. Their adult son lives with them. They do not oppose the eviction. They are willing to leave the property. They have already had discussions with the local authority regarding housing alternatives. They invited the Tribunal to make the order to enable them to move on with their lives.

A relevant Section 11 notice has been issued to the local authority. The tribunal was satisfied that it is likely that the respondents will be provided with alternate accommodation in the event of an eviction order being made against them. Local authority housing is however limited and little if any choice will be available.

Weighing up the respective circumstances of the parties, the tribunal concluded that it was reasonable to grant the eviction order. In order to assist the respondents the Tribunal extended the period by which an eviction can be given effect to and carried out to an eight week period which is 31 October 2024.

## 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.

Richard Mill

5 September 2024

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Legal Member/Chair

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Date