



**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/24/0351**

**Re: Property at 15 Glen Nevis Drive, Dunfermline, Fife, KY11 4QT (“the Property”)**

**Parties:**

**Mrs Dorothy Basden, 235 Pitcorthie Drive, Dunfermline, Fife, KY11 8BS (“the Applicant”)**

**Miss Morna Alexia Jean Ross, 15 Glen Nevis Drive, Dunfermline, Fife, KY11 4QT (“the Respondent”)**

**Tribunal Members:**

**Andrew Cowan (Legal Member) and John Blackwood (Ordinary Member)**

**Decision**

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

**Background**

1. This is an Application for an eviction order in regard to a Private Residential Tenancy ("PRT") made in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (as amended) ("the Rules"). The PRT is between the Parties and relates to the Property. The tenancy commenced on 16 April 2021.
2. The Application was dated 20 January 2024. The Application relies upon a Notice to Leave dated 28 August 2023, issued in terms of section 52 of the Private Housing (Tenancies) (Scotland) Act 2016. The notice was served upon the Respondent by email on 28 August 2023, all in accordance with the

provisions of the PRT. The Notice relied upon Ground 4 of Schedule 3 of Part 1 of the 2016 Act, in that "the landlord intends to live in the let property.". The Notice to Leave intimated that an application to the Tribunal would not be made before 24 November 2023.

3. The Application papers included evidence that a section 11 notice, in terms of the Homelessness Etc. (Scotland) Act 2003, had been served upon Fife Council on 17 January 2024.
4. The Application papers also included a written statement from the Applicant in which she confirmed that she wishes to move into the Property. The Applicant explained in her statement that she is finding it difficult to use the stairs in her current home. She wishes to move into the Property, which is on one level, to allow her easier access to the rooms and facilities in that property.

### **The Case Management Discussion**

5. This was the second Case Management Discussion ("CMD") in relation to this application. At the first CMD, which took place on 26 July 2024, the Applicant did not join the CMD teleconference call. The CMD was continued to today's date to allow the Applicant an opportunity to join the CMD and, if necessary, give evidence to the Tribunal.
6. This continued CMD was held using teleconference facilities. The Applicant joined the conference call, along with her son, Mr Len Basden. The Respondent also joined the CMD.

### **Discussions at CMD**

7. The Tribunal asked various questions of both the Applicant and the Respondent in relation to the Application.
8. The Applicant confirmed to the Tribunal that she continued to seek an order for recovery of possession of the Property. The Applicant wishes to move into the Property as her principal home as soon as possible. She wishes to move as she can no longer manage to comfortably use the stairs in her current home. She wishes to move to the Property as it is on one floor and will meet her mobility needs. The Tribunal noted that the Applicant is the owner of the

Property. The Applicant is also the Landlord in terms of the tenancy agreement between the parties.

9. The Respondent confirmed that she had received a copy of the Application and that she had taken advice from the local authority housing department in relation to the application. She did not wish to seek any further advice. The Respondent understood that, to grant an order for repossession, the Tribunal had to be satisfied that it was reasonable to grant such an order in all the circumstances of the case and considering the individual circumstances of the parties.
10. The Respondent resides alone in the Property. She fully understands that, if an order was granted for repossession of the Property, she would be homeless and would require to seek alternative accommodation from the local authority, or other housing provider.
11. The Respondent confirmed that she had taken advice from the local authority in relation to the application. They had advised her that the notices which had now been served on her by the Applicant were considered by the local authority as valid and enforceable. The Respondent understood that she could seek to argue that repossession of the Property was not reasonable, but she did not wish to do so. The Respondent has been informed that she cannot be considered for rehousing by a local authority or other social housing provider unless her current tenancy has been terminated by order of this Tribunal
12. The Respondent does not wish to oppose the granting of an eviction order by the Tribunal.

### **Findings in Fact**

13. On 16<sup>th</sup> April 2021 the Applicant let the Property to the Respondent under a Private Residential Tenancy with commencement on that date (“the Tenancy”).
14. Notice to Leave was emailed to the Respondent on 28 August 2023.
15. The Applicant raised proceedings for an order for eviction with the Tribunal, under Rule 109, relying in part on Ground 4 of Schedule 3 part 1 of the 2016 Act on 12th June 2023.
16. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon Fife Council on the Applicant’s behalf.

17. The Applicant intends to occupy the Property as her only or principal home for at least 3 months.
18. It is reasonable to grant an order for the eviction of the Respondent from the Property.

### **Reasons for Decision**

19. The Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal.
20. The application is in terms of rule 109, being an order for eviction of a PRT. We were satisfied on the basis of the application and supporting papers that the Notice to Leave had been competently drafted and served upon the Respondent
21. Ground 4 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:
  - (a) the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months, and
  - (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
22. We were satisfied on the uncontested evidence that the Applicant has a genuine intention to reside in the property for at least 3 months and that Ground 4 of Schedule 3 to the 2016 Act has been established.
23. The basis for the eviction order was accordingly established.
24. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
25. In this case the Tribunal finds that it is reasonable to grant the order.
26. The landlord has established the reason for her need to move into the Property.
27. The Tribunal accept that, if an order is granted, the Respondent will require to find an alternative an affordable private let or to seek accommodation from the Local Authority.
28. The overriding factor is that the Respondent does not wish to oppose the application for an eviction order. She has stated that she requires an order from the Tribunal to allow her to progress with her application for housing with

the local authority. In these circumstances the Tribunal finds that it is reasonable to grant an eviction order.

29. The Tribunal have determined that the eviction order should not be executed prior to 12 noon on 30 September 2024.

## **Decision**

The eviction order is granted – not to be executed prior to 12 noon on 30 September 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.**

# Andrew Cowan

**Andrew Cowan**

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**Legal Member/Chair**

**26 August 2024**

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**Date**