



**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 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)**

**Chamber Ref: FTS/HPC/EV/24/1796**

**Re: Property at 40 CHURCH ROAD, GLASGOW, G76 8ED (“the Property”)**

**Parties:**

**Mr Rashmi Verma, 16 CARTSBRIDGE ROAD, GLASGOW, G76 8DH (“the Applicant”)**

**Ms Lesley Ann Murphy, 40 CHURCH ROAD, GLASGOW, G76 8ED (“the Respondent”)**

**Tribunal Members:**

**Nicola Weir (Legal Member) and Gordon Laurie (Ordinary Member)**

**Decision**

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

**Background**

1. By application received on 22 April 2024, the Applicant applied to the Tribunal for an order for recovery of possession of the Property in terms of Section 51 of the 2016 Act against the Respondent. The application sought recovery in terms of Ground 1 of Schedule 3 to the 2016 Act (landlord intends to sell). Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, the Notice to Leave/proof of service of same, the notification to the local authority in terms of Section 11 of the Homelessness (Scotland) Act 2003/proof of service of same and evidence in support of the ground, namely a written communication from the Applicant’s

estate agent confirming the approximate valuation and that they were instructed to market the Property for sale in due course.

2. Following initial procedure, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. Notification of the application and details of the Case Management Discussion (“CMD”) fixed for 17 September 2024 was served on the Respondent by way of Sheriff Officer on 16 August 2024. In terms of said notification, the Respondent was given until 5 September 2024 to lodge written representations. No written representations were lodged by or on behalf of the Respondent prior to the CMD.

### **Case Management Discussion**

4. A Case Management Discussion (“CMD”) took place by telephone conference call on 17 September 2024 at 10am, attended by the Applicant’s representative, Mr Jeffrey Livingstone of Landlord Specialist Services Scotland and the Respondent, Ms Lesley Ann Murphy. The commencement of the CMD was slightly delayed due to technical difficulties.
5. Following introductions and introductory remarks by the Legal Member, including apologies for the late start, there was discussion regarding the eviction application and Ms Murphy’s position in relation to it, which was essentially that she was not opposed to it but does not yet have alternative accommodation to move to. She accepts that the Applicant wishes to sell and she herself is quite happy to move and is seeking local authority or housing association accommodation.
6. Mr Livingstone explained that the Applicant needs to sell the Property for financial reasons, namely that one of his parents is in a care home and the proceeds of sale are required to help with care home costs. The Applicant is not experiencing financial hardship in the usual way of having difficulties with meeting mortgage payments or with Ms Murphy paying rent. On the contrary, Mr Livingstone stated that Ms Murphy had managed the tenancy in an exemplary way and they will assist in any way that they can with providing her with a reference or generally in connection with her social housing application. Mr Livingstone is not aware of the Applicant having any other properties that he rents out, but, on Ms Murphy stating that she is aware that the Applicant does have one or two other rental properties in Glasgow, he stated that it may be that any other tenants have left and certainly that he has no instructions to raise any other eviction applications, etc. Ms Murphy reiterated that she wishes to move and that she was aware from previous discussions with the Applicant that his parents are elderly and in ill health.
7. It was noted that Ms Murphy has been in contact with her home local authority, East Renfrewshire Council, and also with South Lanarkshire Council and a Housing Association there as it is the Cambuslang area in which she

hopes to permanently settle. The local authorities are aware of the Tribunal proceedings and she has an appointment with her home authority tomorrow. They have said that she could not progress with a homeless application until an eviction order has been granted. Ms Murphy explained that she has some medical and health issues, of which the local authorities are aware and understands that her housing application will be given some priority because of this. She is aware that she may require to be provided with temporary homeless accommodation before she gets an offer of permanent housing but appeared confident from her discussions with the local authorities that any accommodation provided to her will take into account her health and other needs. Ms Murphy advised that she is almost 51 and lives alone, although her son, daughter and partner all provide her with a level of care. She accordingly requires a two bedroom property and, again, stated that the social housing providers are aware of this. Ms Murphy also mentioned that there are some outstanding repair type issues with the Property, including damp and bugs, which impact on her health and which mean that she is quite happy to move out.

8. There was some discussion regarding the option for the Tribunal to grant an order, but delay the eviction date if that would assist the Respondent with regard to her housing application. Mr Livingstone stated that he is aware that the Applicant would wish to start marketing the Property as soon as possible and made reference to the length of time the proceedings have already been underway. Ms Murphy likewise indicated that she would like to get alternative accommodation sorted out as soon as possible and did not really need any extended date.
9. The Tribunal adjourned briefly to consider the application and, on re-convening, confirmed that the Tribunal would grant the eviction order sought without any extension on the eviction date. The process which would now follow and the likely timescales were discussed briefly. Parties were thanked for their attendance.

### **Findings in Fact**

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 1 March 2022.
3. The Applicant intends to sell the Property and to market it for sale as soon as possible and within 3 months of obtaining vacant possession.
4. A Notice to Leave in proper form and giving the requisite period of notice (84 days) was sent by email to the Respondent on 24 January 2024.
5. The date specified in the Notice to Leave as the earliest date the eviction Application could be lodged with the Tribunal was 21 April 2024.

6. The Tribunal Application was submitted on 22 April 2024.
7. The Respondent remains in possession as she has not yet secured alternative accommodation.
8. The Respondent does not oppose the application as she wishes to move out of the Property and has applied for social housing which will be more suitable for her needs.
9. The Applicant's reason for wishing to sell the Property is due to financial reasons concerning the current circumstances of a family member.

### **Reasons for Decision**

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, and the oral information provided at the CMD on behalf of the Applicant and by the Respondent.
2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the requisite period of notice (84 days) had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the tenancy agreement and the relevant provisions of the 2016 Act.
3. The Tribunal considered that the ground of eviction, that the landlord intends to sell (Ground 1 of Schedule 3 to the 2016 Act, as amended) was satisfied in that all elements of Ground 1 were met and that it was reasonable, having regard to all of the circumstances known to the Tribunal, to grant the eviction order sought. The Tribunal had noted that there was supporting documentation with the application from an estate agent who is to be involved in the marketing of the Property and also that the Applicant's intention to sell is due to financial circumstances. The Applicant requires to recover the sale proceeds to assist with the care costs of an elderly parent. The Tribunal also asked about, and considered, the Respondent's personal circumstances and the fact that she has not yet secured alternative accommodation to move to. However, the Respondent accepted the Applicant's reason for wishing to sell and, in fact, it suited her to move out of the Property and into social housing which, she explained, would better suit her needs. She had already been in contact with local authorities and housing associations who are aware of her housing needs and requires the Tribunal to grant an eviction order before her housing applications can progress. In all of the circumstances, the Tribunal considered it reasonable to grant the eviction order sought.
4. The Tribunal did not have any material before it to contradict the Applicant's position and was satisfied that the Applicant has a genuine intention to sell. The Respondent accepted the Applicant's position and was not opposed to

the eviction order being granted. The Tribunal accordingly determined that an order for eviction could properly be granted at the CMD as there were no relevant facts in dispute nor any other requirement for an Evidential Hearing.

### **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.**

Nicola Weir

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**Legal Member/Chair**

**17 September 2024**  
**Date**