



**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/24/1269**

**Re: Property at 21 Charles Crescent, Bathgate, EH48 1JF (“the Property”)**

**Parties:**

**Dr Audrey Jamieson, 27 Groathill Avenue, Edinburgh, EH4 2LZ (“the Applicant”)**

**Miss Natasza Liszka, 21 Charles Crescent, Bathgate, EH48 1JF (“the Respondent”)**

**Tribunal Members:**

**Nicola Weir (Legal Member) and Gerard Darroch (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 15 March 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 Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003/proof of service of same and evidence in support of the ground, namely an communication from estate agents

confirming that they were instructed by the Applicant in the sale of the Property.

2. Following initial procedure, on 30 May 2024, 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 9 October 2024 was served on the Respondent by way of Sheriff Officer on 2 September 2024. In terms of said notification, the Respondent was given until 19 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 9 October 2024 at 2pm, attended by the Applicant, Dr Jamieson, and by the Respondent, Miss Liszka. Ms Liszka was accompanied by Ms Paulina Danish who was attending in a supportive capacity to assist with language translation for Miss Liszka, which she did throughout the CMD.
5. Following introductions and introductory remarks by the Legal Member, the purpose of the CMD was explained and there was discussion regarding the eviction application. Miss Liszka was asked to confirm her position in relation to the eviction application. She confirmed That she was not opposed to the eviction but does not yet have anywhere to go. She has already been to the local authority for help and the Tribunal decision is now awaited before the local authority will provide her with accommodation. It was noted that Miss Liszka lives at the Property with her son, aged 15, who is autistic and needs full-time care.
6. Dr Jamieson confirmed that she is aware of the Miss Liszka’s position and has, in fact, been in contact with the local authority on her behalf. Miss Liszka has been a good tenant and they have always had an amicable relationship. Dr Jamieson confirmed that Miss Liszka has experienced a few issues but they have always worked together to resolve them. Dr Jamieson confirmed that the reason she wants to sell the Property is that she wants out of the landlord business altogether. She has already instructed an estate agent but the Property needs some work done on it, including a new boiler, before it can be put up for sale and this would not be able to be done while her tenant was still living there. Dr Jamieson confirmed that she has a few other properties that she lets out and that these will also be sold in due course. However, she is doing this in stages and decided to sell this Property first due to the amount of work involved.
7. The Tribunal Members considered the application and confirmed that the Tribunal would grant the eviction order sought. The process which would follow was explained and Miss Liszka was informed that she should provide a

copy of the decision paperwork, which will be issued shortly, to the local authority as soon as possible, so that her housing application would be progressed. Parties and Ms Danish 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 9 December 2023, although the Respondent had resided there for longer than that, presumably under a previous tenancy arrangement.
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 was sent by email to the Respondent on 10 December 2023 and acknowledged by her.
5. The date specified in the Notice to Leave as the earliest date the eviction Application could be lodged with the Tribunal was specified as 6 March 2024.
6. The Tribunal Application was submitted on 15 March 2024, following the end of the notice period.
7. The Respondent remains in possession.
8. The Respondent did not lodge any written representations but did attend the CMD.

### **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 by both parties.
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 the circumstances, to grant the eviction order sought. The

Tribunal had noted that there was supporting documentation with the application from an estate agent and that the Applicant's intention to sell is due to her wish to retire from being a landlord altogether. The Tribunal was satisfied from the information provided that the Applicant has a genuine intention to sell as soon as possible, for the reason stated. The Tribunal noted the Respondent's personal circumstances, including that she lived with her teenage son and that he is autistic and requires full-time care. However, the Respondent was not opposed to the application and had already contacted the local authority about alternative housing. Although she has not yet secured alternative housing, the Tribunal was satisfied that she understood the position and also that she had been advised by the local authority that she should notify them once an eviction order is granted, at which point her housing application will progress. It was apparent that the parties had a good relationship and the Tribunal noted that the Applicant had already been in contact with the local authority to vouch for the Respondent and assist her housing application. In all 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 the Respondent was not opposing the eviction. The Tribunal accordingly determined that an order for eviction could properly be granted at the CMD as there were no 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.**

**Legal Member:**

**Date: 09 October 2024**

**Nicola Weir**