



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/23/4308**

**Re: Property at 43/2 Restalrig Square, Edinburgh, EH76EZ (“the Property”)**

**Parties:**

**Mr David MacDonald, 35 Stapeley Avenue, Edinburgh, EH76QR (“the Applicant”)**

**Miss Ashley Slater, 43/2 Restalrig Square, Edinburgh, EH76EZ (“the Respondent”)**

**Tribunal Members: Lesley-Anne Mulholland (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 Possession be granted in favour of the Applicant against the Respondent.**

1. This is an application under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 for an Order for Possession as the Applicant Landlord intends to sell the property.
2. The Applicant is the owner and Landlord. The Respondent is the Tenant.
3. A two-member Case Management Discussion (CMD) took place at 14.00 pm on 16 September 2024 by teleconference. The Applicant and Respondent attended and represented themselves.
4. The Applicant owned 5 properties. He has sold 2 and has 2 more to sell.
5. The Applicant has recently been diagnosed as suffering from prostate cancer and wishes to get his affairs in order to alleviate his son doing that going forward. He was a publican but has now retired.
6. He chose the Property to sell as it is ex-Local Authority and the rent account is 2 months in arrears. The Respondent claimed Housing Benefit and did not pass this on to him which caused £1,500 arrears of which £39 per month has been paid towards the arrears over the last 6 to 12 months. He has not increased the rent in 5 years as there is no point as Housing Benefit will not pay more.

7. The Applicant commissioned a Home Report and understands that he will have to commission another one as the one he has is more than six months old. He would be agreeable to an extension of the period of notice if an Order is granted.
8. The Respondent agreed with everything the Applicant said. She has a daughter who is 2½ years old. She was working full time and gave up her job around the time of the birth. She claimed Universal Credit and accepts that she received Housing Benefit and did not pay this directly to the Applicant. She has no help from the child's father and they are now separated.
9. She has been in touch with the Local Authority who have asked her to contact them again if the Order is granted. She has nowhere else to go as her friends and family do not have enough space and she would need to sofa surf. She does not have any health issues.
10. Having considered all of the information individually and together, we were satisfied that the Applicant is entitled to sell the let property, 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.
11. We were satisfied that it was reasonable to issue an Order for Possession in all the circumstances, as the Applicant has health issues and is retired. The Local Authority are aware of the application and have a duty to find accommodation for the Respondent.
12. Accordingly, we decided to issue an Order as Schedule 3(2) of the Private Housing (Tenancies) (Scotland) Act 2016 is satisfied.
13. We decided to extend the period of notice to 60 days to allow the Local Authority to find suitable, alternative accommodation.

### **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.**

Lesley-Anne Mulholland

**Legal Member/Chair**

**Date 16 September 2024**