



**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/23/4205**

**Re: Property at 85 Provost Milne Grove South, Queensferry, EH30 9PL (“the Property”)**

**Parties:**

**Mr Mushtaq Ahmed, 36 Society Road South, Queensferry, EH30 9RX (“the Applicant”)**

**Mr Kevin Melbourne, 85 Provost Milne Grove South, Queensferry, EH30 9PL (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member) and Angus Lamont (Ordinary Member)**

**Decision**

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

**Background**

1. On 22nd November 2023 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 3 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were:
  - a. Copy Private Residential Tenancy Agreement showing a commencement date of 22nd July 2019 and a rent of £1000 per month;
  - b. Copy Notice to Leave dated 21st July 2023;

- c. Recorded delivery slip and track and trace report proving service of the Notice to Leave;
  - d. Section 11 Notice and proof of service;
  - e. Quote dated 15th October 2022 from HS Lothian Ltd regarding refurbishment of the property.
3. The Application was served on the Respondent by Sheriff Officers on 22nd March 2024.

### **Case Management Discussion**

4. The Case Management Discussion (“CMD”) took place by teleconference. The Applicant was represented by Mr Gray of Gilson Gray, Solicitors. The Respondent represented himself and was supported by Rhea McGlashan, Social Worker.
5. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
6. Mr Gray sought an order for eviction in terms of ground 3 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. He said that the property required substantial refurbishment and that it would not be practicable for the Respondent and family to remain in the property while that was carried out. He was not aware of whether the property met the repairing standard or not.
7. The Respondent said that he did accept that the property needed a lot of work done to it, but that he lived there with his five children, ages 10, 13, 14, 19 and 21, and they had nowhere else to go. He had approached his family support worker, the local authority and CHAI for assistance, but had been told that there were no properties of the size required for his family. His main concern was for the schooling of his three younger children.
8. The Tribunal decided that a Hearing was necessary.
9. The Tribunal explained that at the Hearing the Applicant would need to lead evidence to prove that the extensive refurbishment was required, and that it would be impracticable for the Respondent and his family to continue to occupy the property given the nature of the refurbishment intended, and that both parties would need to lead evidence about the reasonableness aspect of granting the order sought. The Tribunal reminded the parties that they should

refer to the Tribunal's Rules regarding the lodging of any documents and notification of the witnesses to be called.

### **Subsequent to CMD**

10. On 30<sup>th</sup> September 2024 the Applicant's solicitor lodged a List of Witnesses and an Inventory of Productions. The Inventory contained a number of photographs of the inside of the property, taken in the last few weeks.

### **Hearing**

11. The Hearing took place by teleconference on 7<sup>th</sup> October 2024. The Applicant was represented by Mr Smart of Gilson Gray, Solicitors. The Respondent was not present but was represented by Mr Donegan of CHAI.

12. Mr Donegan said that he had instructions from the Respondent to the effect that the Respondent no longer wished to contest the eviction application and wished to move out as soon as possible. He appreciated that the condition of the house meant that it was no longer suitable for him and his family to live in. he had the highest priority on the local authority list for rehousing, due to overcrowding.

13. Mr Smart had no further motions to make.

### **Findings In Fact**

- i. The parties entered in to a Private Residential Tenancy in respect of the property commencing 22nd July 2019;
- ii. The Applicant served a Notice to Leave dated 21st July 2023 on the Respondent timeously and correctly;
- iii. HS Lothian Ltd provided a quote dated 15th October 2022 regarding refurbishment of the property;
- iv. the Applicant intends to refurbish the let property;
- v. the Applicant, being the owner, is entitled to do so,
- vi. it would be impracticable for the Respondent and his family to continue to occupy the property given the nature of the refurbishment intended;
- vii. The Respondent consents to the order.

### **Reasons For Decision**

14. The Tribunal are satisfied that the ground has been met by provision of the quote and photographs. The Tribunal are satisfied that it is reasonable to grant the order as the Respondent does not oppose it.

### **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.**

**Alison Kelly**

**07/10/2024**

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**Legal Member/Chair**

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**Date**