



**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/24/1551**

**Re: Property at Second Floor Right, 46 Balmoral Place, City Centre, Aberdeen, AB10 6HP (“the Property”)**

**Parties:**

**Mrs Audrey Anderson, 2 Millbank, Maryculter, Aberdeen, AB12 5FT (“the Applicant”)**

**Mr Dean Martin, Second Floor Right, 46 Balmoral Place, City Centre, Aberdeen, AB10 6HP (“the Respondent”)**

**Tribunal Members:**

**Yvonne McKenna (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision (in absence of the Respondent)**

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

**Background**

1. This is an application under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. The application seeks an eviction order.
3. Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the Respondent by Sheriff Officers on 21 August 2024.

**The Case Management Discussion**

4. The CMD took place by teleconference on 20 September 2024 at 2.00 pm. The Applicant was represented by Mr Martin Urquhart of DJ Alexander letting agency. The Respondent was not represented and did not participate.

5. The Applicant sought an Order for Eviction.

### **Findings in Fact**

6.

- The Applicant is the owner and landlord of the Property.
- The parties entered into an agreement for let of the Property with a start date of 11 May 2022.
- The agreed monthly rent was £470.
- The Respondent has accrued around £1264.26 of rent arrears.
- The Applicant wishes to sell the property and has instructed selling agents to act in that regard.
- The Applicant served a valid notice to leave on the Respondent by e-mail dated 21 December 2023 as provided for in the tenancy agreement.
- The notice to leave was dated 21 December 2023 and requested the Respondent to leave the property by 17 March 2024.

### **Reasons for Decision**

7. The Applicant relies upon ground 1 contained within part 1, schedule 3 to the 2016 Act. This specifies that it is an eviction ground where the landlord intends to sell the let property. The relevant notice period under ground 1 at the time that the notice to leave was served was 84 days. The notice to leave, served upon the Respondent and relied upon in this application is valid. The required notice period was provided.

8. The intention to sell is evidenced by the production of an email from the applicant to his agent asking for the respondent to be evicted to enable her to sell it and communication from the agents back to her. This documentary evidence is not challenged. The tribunal was satisfied on the basis of this evidence produced that it is the applicant's intention to sell the let property.

9. The Applicant had served the relevant section 11 Notice to Aberdeen City Council under the Homelessness etc. (Scotland) Act 2003 on 4 April 2024.

10. The Tribunal proceeded to consider the issue of reasonableness on the making of an eviction order. The Tribunal weighed up the respective circumstances and needs of the parties.

11. The Applicant's circumstances have changed since she entered into the tenancy agreement. Her working hours have been reduced dramatically due to a decline in workload, and for some time she has required to use any savings she had, to meet her monthly bills. She is now the only earner in her household as her partner was involved in an accident, and is reliant on a wheelchair. She has incurred additional costs in adapting her house as a consequence. In addition to caring responsibilities

for her partner, both her mother and her partner's mother have been diagnosed with senile dementia. Her beloved pet dog has taken ill. Her health is being impacted and she requires to sell the Property to consolidate her assets.

12. The Applicant has engaged the services of agents to sell the Property. In the first instance, they have now been able to visit and assess the Property before it is marketed for sale. It is apparent that work will be required to put the Property into a state for sale.

13. The Respondent remains in the Property. He has been in touch with the local authority who have told him to remain there, until the eviction order is granted. He has apologised for the arrears of rent. He lives in the Property alone and is not known to have any health issues. He has not engaged in the eviction proceedings. The Tribunal weighed up the circumstances of both parties, and was satisfied that it was reasonable in all of the circumstances, to grant the eviction. The Tribunal accordingly granted the eviction.

### **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.**

# Yvonne McKenna

**Yvonne McKenna**

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**Legal Member/Chair**

**20 September 2024**

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**Date**