



**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/24/0736**

**Property : 44 Tinto Avenue, Bellfield, Kilmarnock KA1 3SE (“Property”)**

**Parties:**

**John Ross, 4 Castle Drive, Kilmarnock KA1 3SE (“Applicant”)**

**Johanna Urquhart, 25 Jean Armour Drive, Kilmarnock KA1 2SD (“Applicant’s Representative”)**

**Michael Harkness, 44 Tinto Avenue, Bellfield, Kilmarnock KA1 3SE (“Respondent”)**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Frances Wood (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to refuse the application.**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Private Tenancy Agreement which commenced on 28 July 2019; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act"); a copy of an email from the Applicant’s Representative to the Respondent attaching the Notice to Leave dated 14 November 2023; a quote from Campbell Construction (Wishaw) Ltd dated 10 November 2023 for replacement of the bathroom and kitchen at the Property; and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 15 February 2024. The Tribunal had sight of a sheriff officer's report dated 27 August 2024 in which they stated they attended the Property and met with the Applicant who told them that the Respondent had removed from the Property. The Tribunal Administration emailed the Applicant’s Representative on 6 September 2024 providing a copy of the sheriff officer’s report and asking them to confirm that the application was withdrawn. No response was received.

## **Case Management Discussion (“CMD”)**

A CMD took place before the Tribunal on 1 October 2024 by teleconference. Neither the Applicant, the Applicant’s Representative or the Respondent were in attendance.

## **Reasons for the Decision**

In terms of section 50 of the Act a tenancy comes to an end if the tenant has received a notice to leave from the landlord and the tenant has ceased to occupy the let property. In this case the Respondent received the notice to leave by email on 14 November 2023. The sheriff officer’s report indicated that the Respondent ceased to occupy the Property by 27 August 2024. The tenancy had therefore come to an end in terms of section 50(2)(b) of the Act.

## **Decision**

The Tribunal determined to refuse the Application.

## **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.**

**Joan Devine  
Legal Member**

**Date: 1 October 2024**