



**Decision 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/24/2630**

**Re: Property at 27 Covenant Cres, Larkhall, ML9 2EY (“the Property”)**

**Parties:**

**Mr Clark Pheeley, 72 Heron View, Motherwell, ML1 2FN (“the Applicant”)**

**Mr Scott McHolm, 27 Covenant Cres, Larkhall, ML9 2EY (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (Legal Member) and Gordon Laurie (Ordinary Member)**

**Decision**

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

Introduction

This is an application under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The application seeks an eviction order.

Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the respondent by Sheriff Officers on 22 August 2024.

The CMD took place by teleconference on 20 September 2024 at 2.00 pm. Both parties represented their own interests.

Findings and Reasons

The property is 27 Covenant Crescent, Larkhall ML9 2EY. The applicant is Mr Clark Pheeley who is the heritable proprietor of the property and the registered landlord. The

respondent is Mr Scott McHolm who is the tenant. The respondent's mother, Anne McHolm, is the named guarantor.

The parties entered into a private residential tenancy in respect of the property which commenced on 27 March 2021.

The applicant relies upon ground 1 contained within part 1, schedule 3 to the 2016 Act and intends to sell the let property. The relevant notice period under ground 1 at the time that the notice to leave was served was one of 84 days.

The notice to leave relied upon in this case is dated 8 March 2024 and stipulates that the earliest an application be submitted to the tribunal would be 1 June 2024. The notice to leave was served upon the respondent by Sheriff Officers on 8 March 2024 which is evidenced. The required statutory notice was given to the respondent and the notice to leave is therefore valid.

In support of the ground of eviction the applicant has produced a copy of the terms of engagement with his estate agent to sell the property. The applicant has a number of rental properties. He is 55 years of age and in the process of selling them. The tribunal was satisfied on the basis of the unchallenged evidence produced that it is the applicant's genuine intention to sell the let property.

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.

The respondent reported to the tribunal that he had taken up occupation of another tenancy from 13 September 2024. He had not however removed all of his belongings nor returned the keys for the let property to the applicant. He is employed. He has no dependants and no known disability or other vulnerabilities.

There are outstanding rent arrears in the sum of £1,800, which the respondent accepts. The applicant asserts that the respondent is in breach of the tenancy agreement with regards to the smoking of cannabis and the failure to attend to the garden. He also asserts that the respondent has failed to allow access for landlord compliance checks and in particular has failed to allow access to an electrician. The relationship between the parties has broken down and neither trust the other.

A relevant Section 11 notice has been issued to the relevant local authority who is under a statutory obligation to provide the respondent with alternate accommodation in the event of an eviction order being made.

Weighing up the respective circumstances of the parties, the tribunal concluded that it was reasonable to grant the eviction order. An order is necessary as the respondent has failed to vacate the property despite having been able to do so before the CMD. The applicant is entitled to an order to ensure that he obtains vacant possession as soon as possible particularly given ongoing rent arrears.

## 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.

**R Mill**

20 September 2024

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Legal Member/Chair

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Date