



**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**

Reference number: FTS/HPC/EV/24/1532

Order granted on 17 October 2024.

**Re: Property at 6/5 Parkgate, Dunfermline, KY11 2JW (“the Property”)**

**Parties:**

**Aitchison & Jones Ltd, a company incorporated under the Companies Act and having their registered office at 4 Lothian Street, Dalkeith, EH22 1DS (“the Applicant”)**

**Debi Spence, residing at, 6/5 Parkgate, Dunfermline, KY11 2JW (“the Respondent”)**

**Tribunal Members:**

**Paul Doyle (Legal Member)  
Elizabeth Dickson (Ordinary member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order against the Respondent for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1A of schedule 3 to the 2016 Act.**

**Background**

1. The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant lodged with the Tribunal Form E dated 04/04/2024. The documents produced were a Tenancy Agreement dated 01/08/2018; a notice to leave served on 20/12/2023, a Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 and a letter from the Applicant's accountant. A copy land certificate was lodged with the Tribunal which showed that one of the applicant's directors is the heritable proprietor of the Property.

2. By interlocutor dated 28/05/2024, the application was referred to this tribunal. The First-tier Tribunal for Scotland (Housing and Property Chamber) served notice of referral on both parties, directing the parties to make any further written representations. No further representations were received.

### **Case Management Discussion**

3. A case management discussion took place by telephone conference at 2.00pm on 17 October 2024. The Applicant was represented by Ms C Gray, of Professional Property Letting Limited. The Respondent was present and unrepresented. The Respondent was accompanied by her daughter. The Respondent told us that she does not oppose the application.

### **Findings in Fact**

4. The Tribunal made the following findings in fact:

(i) The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the Property on 01/08/2018.

(ii) The applicant has to sell the property to raise sufficient funds to refloat their business. They have no other access to funds.

(iii) The Respondent lives alone in the property. The Respondent lives with a number of painful health conditions, including Osteo-arthritis, Neuralgia, Sciatica, and Fibromyalgia. Her conditions are managed with oral medication. The property does not have any adaptations to help the Respondent manage her health conditions. The Local Authority are willing to offer alternative accommodation to the Respondent,

(iv) This application and the uncertainty about future housing have presented the Respondent with challenges. The Respondent wants an order to be granted so that her application for alternative housing can be fully considered by the Local Authority.

(v) On 20/12/2023 the applicant served a notice to leave on the respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. A section 11 notice was served on both the respondent and the local authority by the applicant. On 04/04/2024, the applicant submitted an application to the tribunal.

### **Reasons for the Decision**

5. The Applicant seeks recovery of possession of the Property in terms of Ground 1A of schedule 3 to the 2016 Act. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

6. The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms of Ground 1A of schedule 3 to the 2016 Act are established.

7. In all the circumstances, it is reasonable to grant an order for possession.

8. For these reasons, the Tribunal determined to grant an Order for possession.

### **Decision**

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property against the Respondent in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground1A of schedule 3 to the 2016 Act.

### **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.**

**Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

Legal Member: *Paul Doyle*

Date: 17 October 2024

# Paul Doyle