



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 and Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”)**

**Ref: FTS/HPC/EV/24/2020**

**Re: Property at 2 Glencairn Street, Falkirk, FK1 4LY (“the Property”)**

**Parties:**

**Mrs Urszula Waliszewska, 78 Garry Place, Falkirk, FK1 2QH (“the Applicant”)**

**Ms Justyna Laskowska, 2 Glencairn Street, Falkirk, FK1 4LY (“the Respondent”)**

**Mr Craig Jones, 2 Glencairn Street, Falkirk, FK1 4LY (“the Respondent’s Representative”)**

**Tribunal Members:**

**Ms. Susanne L. M. Tanner K.C. (Legal Member)**

**Mrs. Mary Lyden (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”):**

**(1) was satisfied that Ground 5 in Schedule 3, Part 1 to the 2016 Act was established by the Applicant, in that on the day the tribunal considered the application for an eviction on its merits: a member of the landlord's family intends to occupy the let property as that person's only or principal home for at least 3 months, the family member is a qualifying relative, namely a parent of the landlord; and that it was reasonable to make an eviction order in the circumstances; and made an order for eviction in terms of Section 51 of the 2016 Act; and deferred the date of execution of the order to 17 December 2024.**

**(2) The decision of the tribunal was unanimous.**

## **Statement of Reasons**

### **Procedural Background**

1. The Applicant made an application to the tribunal on 24 April 2024 in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”).
2. The Applicant provided documents with the Application; and provided further documents and information in response to requests from the tribunal.
3. The tribunal’s administration obtained a copy of the Title sheet for the Property which show that the Applicant is one of the joint registered proprietors. The Applicant provided written authorisation from the co-proprietor to the tenancy and to the Application.
4. On 3 July 2024, the application was accepted for determination and the tribunal sent letters of notification to all parties with the date, time and arrangements for joining the Case Management Discussion (“CMD”) in relation to the Application on 22 October 2024 by teleconference at 1000h. The Application paperwork was personally served on the Respondent by Sheriff Officers. The Respondent was told that if she wished to submit written representations these should be sent to the tribunal by 9 October 2024.
5. The Respondent notified the tribunal’s administration that she wished a representative, Mr Craig Jones, to be added to the case and provided his details.

### **CMD: 22 October 2024, 1000h, Teleconference**

6. The Applicant attended.
7. The Respondent attended with her representative, Mr Craig Jones.
8. I explained the nature and purpose of the CMD.
9. Mr Jones stated that the Respondent is not opposing the eviction Application but she requests additional time to find alternative accommodation. He said that it had never been her intention to stay longer than the initial notice period. She totally understands the position of the landlord. He said that it is purely the fact that she cannot move and has no money for deposit. She has gone through applications

with the council and the housing associations. The council has been made aware of the eviction application and they are awaiting the outcome of the tribunal proceedings. Mr Jones said that he also lives in the Property. He is not on the tenancy agreement. He said that they intend to move together. He said that the financial situation is due to resolve itself over the next eight weeks. They would like to find a private rented property to move into together. Mr Jones said that he was made redundant a few weeks ago and a redundancy payment will be made in six weeks. He said that the normal 30 day period for enforcement of an eviction order would be a huge problem. He said that as far as the council is concerned it is just Ms Laskowska who will be made homeless as he is not on the tenancy. However, they are hoping that none of that will be necessary at all. We do not want to be a burden on the state. They are trying to get everything ready to leave here. They have been looking for three bedrooms. They both come from other countries and regularly have family to visit. If they proceed through the Council then they will only be eligible for two bedrooms. Their preferred option is to be re-housed in the private rented sector once they have the financial means.

10. The Applicant said that she would be happy for enforcement of the eviction order to be deferred for eight weeks from today, which would be 17 December 2024. The tribunal noted that the only ground on the Application form which was included in the Notice to Leave is Ground 5. The Applicant confirmed that she was content to proceed on this basis. The Applicant's father intends to live in the Property as his only or principal home for at least three months. He has produced a letter confirming his intention which is with the Application documents.

11. Mr Jones said that he hopes that deferral to 17 December 2024 will be suitable to receive the payment and initiate a tenancy process.

12. The tribunal adjourned to deliberate.

**13. The tribunal makes the following findings-in-fact:**

13.1. The Applicant is one of the registered proprietor of the Property.

13.2. The Respondent is the sole tenant of the Property in terms of a private residential tenancy agreement which began in August 2021.

13.3. The co-proprietor of the Property consents to the tenancy of the Property by the Respondent.

- 13.4. The co-proprietor of the Property consents to the Application being made seeking the Respondent's eviction from the Property.
- 13.5. On 18 September 2023, a Notice to Leave containing ground 5 of Schedule 3 to the 2016 Act was served on the Respondent.
- 13.6. The Applicant has given the Respondent at least 84 days' notice that they require possession.
- 13.7. The Application to the tribunal was made on 24 April 2024.
- 13.8. The Applicant's father intends to move into the Property and occupy it as his only or principal home for at least three months.
- 13.9. The Respondent lives in the Property with Mr Craig Jones.
- 13.10. The Respondent has made attempts to find alternative accommodation with the local authority and housing associations but so far been unable to do so.
- 13.11. The Respondent and Mr Jones are seeking alternative accommodation in the private rented sector but will not have the financial means to pay a deposit until at least 3 December 2024, when Mr Jones is due to receive a redundancy payment from his employer.

#### **14. Findings in fact and law**

- 14.1. A member of the landlord's family intends to occupy the Property as his only or principal home for at least 3 months and the family member is a qualifying relative, namely a child of the landlord.
- 14.2. The facts required in paragraph 5 of Schedule 3 to the 2016 Act have been established.
- 14.3. It is reasonable to make an order for eviction but considers that it is reasonable to defer the date of execution of the order to 17 December 2024, to allow the Respondent additional time to seek alternative accommodation.

#### **Discussion**

15. The order for eviction is sought in terms of Section 51 and paragraph 1 of Schedule 3 to the 2016 Act. The tribunal was satisfied that the requirements of those provisions have been met.

16. In relation to reasonableness, reference is made to the tribunal's findings in fact.

17. The tribunal was satisfied that it was reasonable to evict the Respondent in the circumstances of the case but considered that it was also reasonable to defer execution to 17 December 2024 at 12 noon.

### **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.**

Ms. Susanne L. M. Tanner K.C.

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**22 October 2024**