



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

**Chamber Ref: FTS/HPC/EV/23/3824**

**Property at 30 Strathkinnes Road, Kirkcaldy, Fife, KY2 5PX (“the Property”)**

**Parties:**

**Mr David Dempster, 15 Canmore Gardens, Kirkcaldy, Fife, KY2 6XR (“the Applicant”)**

**Ms Alex Doig, 30 Strathkinnes Road, Kirkcaldy, Fife, KY2 5PX (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision - In absence of the Respondent**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant. The Tribunal also determined that they should order a delay in execution of the eviction order until 17 January 2025**

**Background**

- 1. The Applicant seeks an eviction order in terms of Section 51 and Ground 1 of schedule 3 of the 2016 Act. A section 11 notice, tenancy agreement, Notice to leave and valuation of the property were submitted with the application. The Applicant also provided a letter from the Respondent which confirmed that she had received the Notice to leave and that this had been sent to her by recorded delivery post on 8 May 2023. The Applicant said that he no longer had the post office certificate of posting.**
- 2. A copy of the application was served on the Respondent and the parties were notified that a CMD would take place by telephone conference call on 30 May 2024. This was postponed at the request of the Applicant as he was in hospital. The parties were notified that the CMD would take place by telephone conference call 23 October 2024 at 10am.**

3. The CMD took place on 23 October 2024. The Applicant participated. The Respondent did not participate and was not represented.

### **Summary of Discussion**

4. Mr Dempster told the Tribunal that the Respondent still resides at the property with her four year old daughter. He has a good relationship with her but has not been in contact recently due to his health issues. He understands that she has applied to the Council for re-housing and has been told that she will not have priority until an eviction order is granted. Mr Dempster explained that he is selling the property and his other rental property because he had a stroke and has to retire. He is not aware of the Respondent or her daughter having any health issues. He invited the Tribunal to grant the order but to order a delay in enforcement until January 2025, to give the Respondent time to find somewhere else to live

### **Findings in Fact**

5. The Applicant is the owner and landlord of the property.
6. The Respondent is the tenant of the property. She resides there with her daughter.
7. The Respondent has applied for alternative accommodation from the Local Authority.
8. The Applicant wishes to sell the property as he has had serious health issues and needs to retire from being a landlord.
9. The Applicant served a Notice to leave on the Respondent on 8 May 2023

### **Reasons for Decision**

10. The application was submitted with a Notice to Leave dated 8 May 2023 together with a letter from the Respondent which establishes that the Notice was sent to her on the same date. The Notice states that an application to the Tribunal is to be made on ground 1, landlord intends to sell the let property.
11. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice which was sent to the Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.

12. Section 51(1) of the 2016 Act states, “The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.”
13. Ground 1 of schedule 3 (as amended) states, “ (1) It is an eviction ground that the landlord intends to sell the let property. (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord – (a) is entitled to sell the let property, (b) intends to sell it for market value or at least put it up for sale within 3 months of the tenant ceasing to occupy it, and (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”
14. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Applicant intends to sell the property and that ground 1 is established.
15. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -
  - (a) The Applicant intends to sell the property as he has had serious health issues and is not fit to continue to be a landlord.
  - (b) The Respondent did not contact the Tribunal or indicate that the application is opposed.
  - (c) The Respondent has applied to the Local Authority for re-housing.
16. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act and that ground 1 has been established. For the reasons outlined in paragraph 15, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.
17. The Tribunal then considered whether to order a delay in execution of the eviction order in term of Regulation 16A(d) of the Tribunal Procedure Rules 2017. This was suggested by the Applicant. The Tribunal notes that the Respondent has a young child, and that the Christmas holiday period is approaching. In the circumstances, the Tribunal is satisfied that a delay in execution would be appropriate.

## **Decision**

18. The Tribunal determines that an eviction order should be granted against the Respondent.

## **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.**

**Josephine Bonnar**

**Josephine Bonnar, Legal Member**

**23 October 2024**