



**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 (“the Act”)**

**Chamber Ref: FTS/HPC/EV/24/1972**

**Re: Property at Flat 2, 209 Glasgow Road, Dumbarton, G82 1DP (“the Property”)**

**Parties:**

**Mr Alistair Johnston, 16 Silverton Avenue, Dumbarton, G82 1BX (“the Applicant”)**

**Ms Samina Wilson, Flat 2, 209 Glasgow Road, Dumbarton, G82 1DP (“the Respondent”)**

**Tribunal Members:**

**Steven Quither (Legal Member) and Gordon Laurie (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) UNANIMOUSLY determined to grant the order for eviction sought by the Applicant, not to be executed before 12 noon on 2 December 2024**

**BACKGROUND**

1. This is an application to bring to an end a Private Residential Tenancy Agreement (“PRT”) in respect of the Property between the parties commencing 15 November 2018. The application to the Tribunal dated 25 April and lodged on 30 April, both 2024 by McArthur Stanton, Solicitors, Dumbarton (“MSS”) was accepted by Notice of Acceptance of 13 June 2024 and a Case Management Discussion (“CMD”) was duly fixed for 21 October 2024.
2. Prior to the CMD, preliminary consideration of the supporting documentation for this application confirmed that Notice to Leave (“NTL”) dated 10 January 2024 was sent by email to the Respondent on the same date, based on the Applicant’s intention to sell the Property (Ground 1 of Schedule 3 of the Act). The appropriate local authority had also been notified of the application in terms

of s11 of the Homelessness etc. (Scotland) Act 2003 and acknowledged receipt of same, both on 30 April, 2024.

3. Prior to the CMD also, the Tribunal sought clarification about steps taken by the Applicant to market the Property for sale, since all that appeared to be in the case file in that regard was an exchange of emails between the Applicant and Eve Property from 17 April 2024, generally indicating an intention and willingness to carry out further work regarding the sale of the Property sometime in the future. By email of 16 October 2024, the Applicant confirmed he had been in further contact both with Eve Property and McIntosh & Humble, Solicitors, Dumbarton ("MHS") in connection with the proposed sale and that Eve Property were expected to view the Property imminently with a view to progressing matters.
4. At all times the Tribunal was aware that in relation to this eviction case, it required to be satisfied not only that the formal requirements regarding same had been complied with but also that it was reasonable to make the order for repossession.

#### **CASE MANAGEMENT DISCUSSION on 21 OCTOBER 2024**

5. The CMD took place by teleconference and duly commenced at 2pm. The Applicant was represented by Michelle Gilmour from MSS and the Respondent attended with her daughter Neha.
6. There were no preliminary matters to be addressed by the Tribunal.
7. In response to questions from the Tribunal, Mrs Gilmour advised and confirmed:--

As per the application, the Applicant sought to sell the property due to his wife's ongoing health issues and a general wish to "destress" their lives, since there was no indication his wife's health was likely to improve and this was taking its toll on him too. In addition, his own health was not the best. He and his wife are both 66 and are finding things difficult to manage. He intended to sell the Property just as soon as he had vacant possession enabling him to do so. He had hoped the Respondent would have purchased the property from him, but an issue had arisen regarding possible dampness in the Property which had thwarted that hope, leading to, so far as the Applicant was concerned, this somewhat unexpected turn of events of requiring to make this application. He thought the issue was perhaps condensation, as opposed to dampness, caused by drying clothes etc in the Property and the particular type of double glazing in the Property, but consideration of this had led to some general improvement work being identified and carried out. He was not content for letting agents to manage the Property on his behalf and had pondered an increase in rent, as opposed to selling the Property but had been made aware of possible restrictions on him being able to do so. He owns one other property where his disabled son lives, but even that is now proving something of a strain too and his intention is to sell it also.

He would hope to be able to execute any order after the usual 30 day period. The Property would be placed on the market for sale just as soon as possible and in any event within 3 months.

8. In response to questions from the Tribunal, the Respondent, with some assistance from her daughter, advised and confirmed:--  
She was no longer opposing the application, but had no alternative accommodation presently available.  
She had made various enquiries in that regard but the fact she was on Universal Credit and only in part-time employment had caused difficulties in securing another privately rented property.  
However, she had been in contact with her local authority regarding being allocated even temporary accommodation depending on the outcome of the application. She had also applied to a number of housing associations for housing but without success to date.  
She is 44 and her daughter aged 21 and son aged 19 both live with her. Both her son and daughter are full time university students in Glasgow and only have part time employment also.  
None of the family have any health issues.  
She understood if the Tribunal granted the order sought, she might receive improved priority for alternative accommodation.  
She had also made enquiries with social work regarding possible assistance.  
She was not opposing the application since she simply wanted matters finalised in order that she and her family could feel more settled in new accommodation.  
She did not agree necessarily that any condensation/dampness issues were as a result of clothes drying and took such steps as she could to ventilate the Property sufficiently to prevent any such issue.
9. Neither party questioned the other nor wished to make any closing submissions as such to the Tribunal.

#### **FINDINGS IN FACT**

10. The parties entered into a PRT for the Property commencing 15 November 2018.
11. Appropriate Notice to Leave has been received by the Respondent and s11 Notice received by the relevant local authority.
12. Due to health issues on the part of both him and his wife, the Applicant now intends to sell the Property and both Eve Property and MHS have been instructed to do so.
13. The Property is to be put up for sale just as soon as the Respondent ceases to occupy it and, in any event, within 3 months.
14. It is reasonable to grant the order for eviction now sought by the Applicant.

#### **REASONS FOR DECISION**

15. The Tribunal was satisfied the Applicant intended to sell the Property, based on the information in the case file and provided at the CMD. It accepted the

(unchallenged) information provided about the health issues affecting both the Applicant and his wife as being the reason for the proposed sale. Further information of the proposed sale was evident from the Applicant's instruction of estate agents and solicitors to act on his behalf once the Property could be put up for sale. In any event, the application was not opposed by the Respondent. In these circumstances, the Tribunal considered Ground 1 was made out and, having regard to all of the information available and lack of opposition, considered it reasonable to grant the order.

16. The Tribunal considered it just to allow the Respondent a short additional period for hopefully sorting out new accommodation for her and her family. The Applicant very fairly did not have any major opposition to this and accordingly the Tribunal is content to delay any enforcement of its order, if such becomes necessary, until 12 noon on 2 December 2024.

### **DECISION**

17. To grant the order for eviction sought by the Applicant, not to be executed before 12 noon on 2 December 2024.

### **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.**

Steven Quither

21 OCTOBER 2024

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**Legal Member/Chair**

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**Date**