



**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**

**Chamber Ref: FTS/HPC/EV/24/2476**

**Re: Property at Flat 20, The Hamiltons, 53 Union Street, Hamilton, ML3 6NR (“the Property”)**

**Parties:**

**L & J Residential Property Ltd, Block 9, South Avenue, Blantyre Industrial Estate, High Blantyre, G72 0XB (“the Applicant”)**

**Mr Euan Fraser Mitchell, Flat 20, The Hamiltons, 53 Union Street, Hamilton, ML3 6NR (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property.**

**Background**

1. By application dated 30 May 2024 the Applicant’s representatives, John Jackson & Dick Ltd, Solicitors, Hamilton applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant submitted a copy of a tenancy agreement, Notice to Leave, Section 11 Notice and an offer to purchase the property together with other documents in support of the application.
2. By Notice of Acceptance dated 10 July 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 25 September 2024.

### **The Case Management Discussion**

4. A CMD was held by teleconference on 31 October 2024. The Applicant was represented by Mr John Gildea from the Applicant's representatives. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation of the proceedings had been given to the Respondent determined to proceed in his absence.
5. Mr Gildea advised the Tribunal that the parties entered into a Private Residential Tenancy that commenced on 8 June 2022. Mr Gildea went on to say that the Applicant intended to sell the property and had obtained an offer for the property dated 22 November 2023 with a date of entry of 18 June 2024. Mr Gildea then referred the Tribunal to the Notice to Leave served on the Respondent by Sheriff Officers on 4 March 2024 under Ground 1 of Schedule 3 of the 2016 Act. Mr Gildea also confirmed that South Lanarkshire Council had been given intimation of the proceedings by way of a Section 11 Notice sent by email on 18 June 2024. Mr Gildea went on to submit that the requirements of Ground 1 of Schedule 3 of the 2016 Act had been met and that an order for the eviction of the Respondent should be granted subject to it being reasonable.
6. Mr Gildea explained that the Respondent remained in occupation of the property and that as a result the sale of the property was in abeyance but that it was still the Applicant's intention to sell once vacant possession was obtained. Mr Gildea went on to say that the Respondent had not paid any rent for the period from February 2024 and the current amount of rent due amounted to £18128. Mr Gildea also advised the Tribunal that the Respondent lived alone at the property with his dog and that he had been a director of an online payment services company that had been the subject of a winding up order in February 2024. Mr Gildea said that he did not believe the Respondent had any health issues and pointed out that the Respondent had not challenged the application. Mr Gildea said that it appeared that the Respondent was no longer able to pay the rent for the property. Mr Gildea also said that the Applicant had made enquiries with the local authority to see if the Respondent was in receipt of housing benefit and had been advised that he was but that it could not be paid direct due to the level of rent. Mr Gildea submitted that it was reasonable in the circumstances to grant the order sought.

### **Findings in Fact**

7. The Respondent commenced a Private Residential Tenancy of the property on 8 June 2022.

8. A Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act was served on the Respondent on 4 March 2024.
9. A Section 11 Notice was sent to South Lanarkshire Council on 18 June 2024.
10. The Applicant obtained an offer for the sale of the property with a date of entry of 7 June 2024. That offer could not proceed due to the Respondent remaining in occupation of the property.
11. The Applicant still intends to sell the property once vacant possession has been obtained.
12. The Respondent owes rent amounting to £18128.00
13. The Respondent lives alone in the property with his dog.

### **Reasons for Decision**

14. The Tribunal was satisfied from the documents submitted and the oral submissions of the Applicant's representative that the parties entered into a Private Residential tenancy that commenced on 8 June 2022. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 1 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to South Lanarkshire Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced and the Applicant's representative's oral submissions that the Applicant intends to sell the property once vacant possession has been obtained.
15. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal took account of the fact that despite being given an opportunity to submit written representations and to attend the CMD the Respondent had chosen to do neither. The Tribunal also acknowledged that the Respondent had accrued very substantial rent arrears with £18128.00 of rent currently due. From the information provided by the Applicant's representative regarding the Respondent's employment status and being in receipt of benefits it was apparent that the Respondent was not in a position to pay the rent for the property and it was likely that further rent arrears would continue to accrue. The Tribunal was satisfied that it was the Applicant's intention to sell the property and in all the circumstances was satisfied that it was reasonable to grant the order sought.

## **Decision**

16. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing finds the Applicant entitled to an order for the eviction of the Respondent from the property.

## **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.**

**Graham Harding  
Legal Member/Chair**

**31 October 2024  
Date**