



**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**

**Chamber Ref: FTS/HPC/EV/24/0623**

**Re: Property at Flat 1/2, 7 Stuart Street, Old Kilpatrick, Glasgow, G60 5HA ("the Property")**

**Parties:**

**Mr Colin MacDonald and Mrs Heather MacDonald, Ardoe, 76-77 Achmelvich, Lochinver, Lairg, IV27 4JB ("the Applicant")**

**Mr Lucasz Caputa, Flat 1/2, 7 Stuart Street, Old Kilpatrick, Glasgow, G60 5HA ("the Respondent")**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Jane Heppenstall (Ordinary Member)**

**Decision**

At the Case Management Discussion ("CMD"), which took place by telephone conference on 26 November 2024, the Applicants were not in attendance but were represented by Mr Robbie McAdam of Homes MacKillop, Solicitors, Glasgow. The Respondent was present and was supported by his sister-in-law, Mrs Caputa, who also acted as the Respondent's interpreter as required.

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:-**

**Background**

A CMD had previously taken place on 28 August 2024. That CMD was adjourned for the Applicants to provide a full and complete account of the reasons for the Property requiring to be sold and to provide supporting evidence in addition. The Respondent was also required to produce a written statement setting out his position in relation to the application and his reasons for opposing an eviction order being granted with supporting evidence where appropriate.

Prior to the CMD today the Tribunal had received the following additional documentation:-

*For the Applicants*

- Email from Holmes MacKillop dated 29 October 2024 with attachment;

- Email from Holmes MacKillop dated 12 November 2024 with attachment; and
- Two emails from Holmes MacKillop dated 18 November 2024 with attachments.

*For the Respondent*

- Email dated 19 November 2024 with attachments.

### **The CMD**

At the outset of the CMD the Tribunal sought to establish the parties' positions relative to the application.

Mr McAdam for the Applicants confirmed they still seek an eviction order.

The Respondent stated he was not opposing an eviction order being granted. He is waiting for Council accommodation. The Respondent said he applied for local authority housing in October 2023 and the granting of an eviction order will help him secure an alternative place to stay. The Respondent lives in the property alone. He is in touch with a housing adviser at the Council.

The Tribunal then canvassed suspending the enforcement of any eviction order granted given that the order would otherwise come into effect over the festive period which would not be a tolerable state of affairs. Mr McAdam stated he was content to defer to the Tribunal's decision on that. The Respondent said a suspension until the end of January 2025 would be acceptable.

The Tribunal adjourned to consider the position.

### **Reasons for Decision**

The Tribunal had regard to Schedule 3, Part 1, paragraph 1 of the Private Housing (Tenancies)(Scotland) Act 2016, which sets out the ground of eviction upon which the application proceeds. That paragraph states:-

*"1. Landlord intends to sell*

*(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.*

*(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—*

*(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,*

*(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market."*

The Tribunal was satisfied that sub-paragraphs 1 and 2 of paragraph 1 are met from the documentation produced with the application, in particular the Letter of Engagement from Black & Hay, Solicitors & Estate Agents, Ayr dated 13 March 2024.

On the question of the reasonableness there was no challenge to the grant of an eviction order and indeed the Respondent indicated that he consented to an eviction order being granted. In these circumstances the Tribunal determined that it is reasonable to grant an eviction order.

Having reached the decision to grant an eviction order the Tribunal carefully considered whether to delay the execution of the eviction order in terms of Rule 16A(d) of the First-tier Tribunal Housing and Property Chamber Rules of Procedure 2017. The Tribunal concluded that it is reasonable to provide the Respondent with an extended period of time to secure alternative accommodation. Accordingly, the Tribunal determined that the order cannot be enforced until after 31 January 2025.

### **Decision**

The Tribunal granted an eviction order against the Respondent in favour of the Applicants with execution of that order delayed until 12noon on 1 February 2025.

### **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.**

# G Buchanan

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Legal Member/Chair

26 November 2024  
Date