



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Housing Property (Tenancies)(Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/24/1983**

**Re: Property at 14 Portsoy, Erskine, PA8 6EJ (“the Property”)**

**Parties:**

**Mr Brian Caplan, 14 Falkland Avenue, Glasgow, G77 5DR (“the Applicant”)**

**Miss Kellie-Anne Sheilds, 14 Portsoy, Erskine, PA8 6EJ (“the Respondent”)**

**Tribunal Members:**

**Mark Thorley (Legal Member) and Gordon Laurie (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order of eviction should be granted with enforcement delayed until 20<sup>th</sup> January 2025**

- Background

The applicant applied to the tribunal for an order of eviction by application submitted on 1<sup>st</sup> May 2024. The application was accepted for determination on the 19<sup>th</sup> of July. 2024 The application was then personally served on the respondent by sheriff officers on 17<sup>th</sup> October 2024. The respondent has not provided any written response to the application.

- The Case Management Discussion

At the case management discussion, Mr Macmillan attended as a representative of the applicant. There was no appearance by or for the respondent. Mr Macmillan confirmed to the tribunal that the applicant owned approximately 50 properties, but was seeking to sell approximately 10 of these. The reason for this was that the

increased mortgage payments on these 10 properties meant that there was a loss being sustained. The mortgage payments were more than the rents. Of these 10 properties at, and following upon services of the notices to leave, approximately four had left and required to go through the tribunal. The applicant was aware that the respondent needed an order in order to secure local authority accommodation.

- Findings in Fact
  1. The parties entered into a private residential tenancy agreement for the property at 14 Portsoy, Erskine, with effect from the 20<sup>th</sup> of July. 2018.
  2. The applicant intimated to the respondent on 31<sup>st</sup> October. 2023 that he wished to recover the property in order to sell it.
  3. The mortgage on this property was more than the rent recovered.
  
- Reasons for Decision

There was no appearance by or for the respondent. This was not the only application being made by the same applicant to recover property in order to sell it. The reason being given was that the mortgage that was being paid on the property was more than the rent. The tribunal accepted this as being a reason for sale. It appeared that the respondent needed an order from the tribunal in order to secure local authority accommodation. Having accepted the evidence from the applicant the tribunal granted an order but delayed eviction until the 20<sup>th</sup> January 2025 to allow the respondent to obtain other accommodation.

- Decision

To grant an order of eviction for the respondent in respect of the property at 14 Portsoy, Erskine, but with enforcement delayed until 20<sup>th</sup> January 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.**

# Mark Thorley

Legal Member/Chair

22 November 2024

Date