



**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)2016**

**Chamber Ref: FTS/HPC/EV/24/2453**

**Re: Property at 34 Mavisbank, Loanhead, EH20 9DE (“the Property”)**

**Parties:**

**Mrs Alexandria Bain, 104 Greens Road, Lanark, ML11 8TG (“the Applicant”)**

**Mrs Andrea Burns, 34 Mavisbank, Loanhead, EH20 9DE (“the Respondent”)**

**Tribunal Members:**

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

**Decision**

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

- Background

The applicant applied by way of application to the tribunal in an application dated 28<sup>th</sup> May 2024. The application was based on the applicant seeking to recover the property on the basis of wishing to sell the property. Alongside the application, the applicant lodged a copy of an email setting out the ground of eviction, a copy of the private residential tenancy agreement, and notice to leave and section 11 letter. The application was accepted for determination on 19 July 2024.

- The Case Management Discussion

At the case management discussion, Miss Bunce attended on behalf of the applicant and the respondent appeared herself. The respondent indicated that she was not opposed to moving out of the property, but she had to secure alternative

accommodation for herself and her three children. She has three children aged 13, 11 and 6. The 13 year old child is a girl. The current rented property is only a two bedroomed property. The respondent indicated that she was on a council waiting list for accommodation. However, she needed an order of eviction in order to be able to secure alternative accommodation. Her children were at school in Loanhead and in Penicuk. She hoped to be rehoused somewhere between these two towns. The applicant indicated that she wanted to sell the property because mortgage rates had increased. The property was no longer financially viable. The respondent had in fact been in the property since 2021.

- Findings in Fact
  1. The respondent and the applicant had entered into a private residential tenancy agreement for the rental of the property at 34 Mavisbank in Loanhead.
  2. The applicant wished to sell the property because of financial constraints.
  3. The respondent was not opposed to the order of eviction but was seeking alternative housing from the local authority.
  4. The respondent has three children living with her.
- Reasons for Decision

There was in fact, no opposition to the order of eviction being sought. The respondent had acknowledged that she was going to move. The property is a two bedroomed property. The respondent has already applied for local authority housing and is on a waiting list. She needs an eviction order to be able to get accommodation. The tribunal acknowledged and understood the reason why the applicant was to sell. Her mortgage payment has gone up. The rental she receives makes the property not viable. The only issue was standing the time of year as to when the respondent should leave and the tribunal considered that a date of 20<sup>th</sup> January 2025 was appropriate.

- Decision

To grant an order of eviction but delayed in terms of enforcement 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 2022

Date