



**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 (“the 2016 Act”)**

**Chamber Ref: FTS/HPC/EV/24/1722**

**Re: Property at 30 Holly Crescent, Georgetown, Dumfries, DG1 4SF (“the Property”)**

**Parties:**

**Miss Janine Parker, The Wight House, Nunwood Gardens, Newbridge, Dumfries, DG2 0DS (“the Applicant”)**

**Mr Callum Smith, Miss Sammi Lee Black, 30 Holly Crescent, Georgetown, Dumfries, DG1 4SF (“the Respondents”)**

**Tribunal Members:**

**Alastair Houston (Legal Member) and Eileen Shand (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be made in favour of the Applicant in terms of paragraph 1 of schedule 3 of the 2016 Act.**

**1. Background**

- 1.1 This is an application under rule 109 of the Chamber Rules whereby the Applicant sought an eviction order on the basis of paragraph 1 of schedule 3 of the 2016 Act. The application was accompanied by a copy of the notice to leave given to the Respondents and, following requests for further information by the Tribunal, the Applicant provide copies of the written tenancy agreement between the parties, notice to the local authority of the proceedings and documents supporting the application, including a letter of engagement of an estate agent to market the property for sale.
- 1.2 The Respondents had not lodged any written representations in advance of the Case Management Discussion.

## **2. The Case Management Discussion**

- 2.1 The Case Management Discussion took place on 3 February 2025 by teleconference. All parties attended personally.
- 2.2 The Tribunal heard from the Applicant. She confirmed that she was seeking to sell the property to alleviate personal financial pressures. She had previously resided at the property which was her sole rental property. The Respondents had resided there for around three years. The tenancy agreement signed in July 2024 did not make any changes to the existing relationship between the parties. She had seen increases in her personal mortgage in respect of her home, together with those associated with the cost of living such as utility bills and council tax. She was only working on a part time basis and was now expecting her third child. She would expect a further drop in income when going on maternity leave in May 2025. Her partner was employed on a full time basis. The property itself was mortgage with payments of £450.00 per month due before costs such as insurance. She had not considered selling the property with the Respondents as sitting tenants and wanted to sell with vacant possession. Yopa estate agents would market the property going forward but it had not yet been valued.
- 2.3 Mr Smith spoke on behalf of the Respondents. He confirmed that they were content for the order to be granted. The Respondents resided with their two children aged five and one. The First Named Respondent was self employed. The Second Named Respondent was not in employment. They received benefits associated with the children but no other income except that earned by the First Named Respondent. They had contacted the local authority for assistance following receipt of the notice to leave but had been told that a more definite date as to when they would have to leave the property was needed before assistance would be provided. They had looked for alternative accommodation in the private sector last year but had not found anything to date due to the fact that they had pets which many landlords would not allow. They had contacted the local authority again upon intimation of the present application and had been told that their homeless application had been accepted. They had not yet been offered any accommodation but understood that the local authority were assisting with applications to the local social landlords on their behalf.
- 2.4 The Tribunal adjourned briefly to consider the application. Following the adjournment, the Tribunal indicated that the application could be dealt with without a hearing. The Tribunal heard from the parties as to whether, in the event of the application being granted, they had any position as to a delay in enforcement of an order. The Applicant advised that she was seeking to sell the property as soon as possible but also had a good relationship with the tenants and just wanted a firm date after which she could move forward with a sale. The Respondents had nothing further to add. The Tribunal proceeded to grant the application but considered a delay in execution of the order was appropriate.

### 3. Reasons For Decision

3.1 The Applicant was seeking an eviction order in terms of paragraph 1 of schedule 3 of the 2016 Act. In terms of that paragraph, the Tribunal was to make an order if the Applicant:-

- (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.*

The Applicant had provided evidence of her intention to sell the property. Her intention was not disputed by the Respondents. The only issue therefore requiring determination by the Tribunal was whether it was reasonable to grant the order.

3.2 Given that there was no factual dispute between the parties, the Tribunal did not consider that a hearing was required. The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah* 1947 SC 245 whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the application was made.

3.3 The Tribunal considered that the Applicant had provided a reasoned decision to sell the property. She would be financially prejudiced if unable to sell. The Tribunal also noted that the application was, essentially, unopposed by the Respondents. They were actively seeking alternative accommodation and had engaged with the local authority who were assisting them. The Tribunal was aware of the duties upon local authorities in terms of the Housing (Scotland) Act 1987 and considered it likely that alternative accommodation would be provided, including on a temporary basis if needed. Equally, the Tribunal was mindful of the Respondents having two young children and considered it appropriate to delay enforcement of the order until the end of March 2025 to allow the local authority additional time to provide such accommodation, as is permitted by rule 16A of the Chamber Rules.

### 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.**

# A. Houston

---

Legal Member/Chair

3 February 2025  
Date