

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**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/24/2864**

**Re: Property at 14 John Paul Jones Court, Kirkcaldy, KY2 6ZN (“the Property”)**

**Parties:**

**Mr John McEwan, residing at 1 John Paul Jones Court, Kirkcaldy, KY2 6ZN (“the Applicant”) and**

**McKenzies, 26 East Ferguson Place, Kirkcaldy, KY1 1ZT (“the Applicant’s Representative”) and**

**Miss Jacqueline Meek, 14 John Paul Jones Court, Kirkcaldy, KY2 6ZN (“the Respondent”)**

**Tribunal Members:**

**G McWilliams- Legal Member**

**S Brydon - Ordinary Member**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an eviction order:**

**Background**

1. This Application, contained in papers lodged with the Tribunal, was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).
2. The Applicant’s Representative, had provided the Tribunal, in the Application, with copies of the parties’ Private Residential Tenancy Agreement (“the PRT”), the Notice to Leave served on the Respondent and the Section 11

(Homelessness Etc. (Scotland) Act 2003) Notice intimated to Fife Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied.

3. The Respondent, Miss Meek, had been validly served by Sheriff Officers with the Notification of Hearing, Application papers and Guidance Notes from the Tribunal on 8<sup>th</sup> January 2025.

### **Case Management Discussion on 18<sup>th</sup> February 2025**

4. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 2.00pm on 18<sup>th</sup> February 2025. The Applicant Mr McEwan attended with his Representative’s Mr Aitken. The Respondent Miss Meek did not attend. She had previously sent an e-mail to the Tribunal’s office on 13<sup>th</sup> January 2025, in which she stated that she would not attend the CMD. In that e-mail Miss Meek said that she had applied to her local authority for a new tenancy. She stated that she wished to be given time for the local authority to obtain another tenancy. The Tribunal’s office had sent an e-mail to Miss Meek on 13<sup>th</sup> February 2025 asking her to confirm her position regarding the grant or otherwise of an eviction order on or before 17<sup>th</sup> February 2025. The Tribunal’s office did not receive a reply from Miss Meek.
5. Mr Aitken stated that Mr McEwan has three other rental properties and wishes to sell the Property for financial reasons. He said that Miss Meek currently owes outstanding rent in the sum of £3,750.00. Mr Aitken stated that he understood that Miss Meek had applied for a social housing tenancy through her local authority. Mr Aitken said that Mr McEwan hopes to recover possession of the Property to sell it as soon as possible. He referred to the Application papers and said that estate agents are instructed to carry out marketing as soon as Mr McEwan has recovered the Property.
6. Mr McEwan said that he is 61 years of age and wishes to sell the Property, in particular, because there is equity in the Property and he hopes to pay off the mortgage on his home. He said that his other rental properties do not have the same amount of capital/equity. He said that he was last in dialogue with Miss Meek around three weeks or so ago as the fence at the Property had blown down during the storm on Friday 24<sup>th</sup> January 2025. He stated that he had replaced the fence by Monday 27<sup>th</sup> January 2025. He said that Miss Meek resides in the Property, which has four bedrooms, two en suite bathrooms, and an additional downstairs WC, with her 15 years old son. He stated that he understands that Miss Meek runs slimming and pilates businesses. He re-iterated that her current arrears are in the sum of £3,750.00. He also re-iterated that he understood that Miss Meek had applied to the local authority for a tenancy. He said that he had previously tried to recover possession of the Property to sell it some five years ago but he did not proceed with that Application to the Tribunal given the Covid pandemic.

## **Statement of Reasons**

7. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
8. Schedule 3 (1) (1) of the 2016 Act provides that it is an eviction ground that a landlord intends to sell the let property and confirms the criteria for the grant of an eviction order on this ground.
9. The Tribunal considered the Application papers, including the PRT, Notice to Leave and supporting papers. The Tribunal, also considered the submission made by M Aitken and Mr McEwan’s oral evidence. Having done so the Tribunal found in fact that Miss Meek is seeking to obtain a local authority tenancy and that Mr McEwan seeks recovery of the Property in order to sell it. The Tribunal found in law that Ground 1 in Schedule 3 to the 2016 Act is satisfied. Given that Miss Meek is actively seeking another tenancy the Tribunal also found that it is reasonable to make such an eviction order. Further the Tribunal decided that it would be appropriate and reasonable to allow Miss Meek some additional time to have her application to her local authority, for alternative housing, processed. The Tribunal therefore decided that it was reasonable to grant the eviction order with a deferred enforcement date of Tuesday 15<sup>th</sup> April 2025.

## **Decision**

10. The Tribunal therefore makes an eviction order as sought in this Application.

## **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 McWilliams**

**Tribunal Legal Member**

**Date: 18 February 2025**