



**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 (“the Act”)**

**Chamber Ref: FTS/HPC/EV/24/2747**

**Re: Property at 66 St Andrew Street, Dalkeith, EH22 1BS (“the Property”)**

**Parties:**

**My Ziggy Limited, 9A Bankhead Medway, Edinburgh, EH11 4BY (“the Applicant”)**

**Mr Pawel Zaleski, Mr Dariusz Szczuka, 66 St Andrew Street, Dalkeith, EH22 1BS; 66 St Andrew Street, Dalkeith, EH22 1BS (“the Respondents”)**

**Tribunal Members:**

**Steven Quither (Legal Member) and Jane Heppenstall (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) UNANIMOUSLY determined to grant the order for eviction sought by the Applicant.**

**BACKGROUND**

1. This is an application dated 17 June 2024 to bring to an end a Private Residential Tenancy (“PRT”) between the parties in respect of the Property commencing 1 January 2022, based on Ground 1 of Schedule 3 of the Act (landlord intending to sell the Property). Along with the application, the Applicant’s agents (ELP Arbuthnott McClanachan, Solicitors, Edinburgh) lodged a detailed Paper Apart outlining the circumstances in which the Applicant was now seeking to sell the Property
2. After a request for further information of 23 July 2024, answered by said agents on 24 July 2024, the Tribunal accepted the application by Notice of Acceptance of 15 August 2024 and a Case Management Discussion (“CMD”) was duly fixed for 26 February 2025 at 10am.

3. Prior to the CMD, preliminary consideration of the supporting documentation for this application confirmed that:--
  - a) The Applicant had taken at the very least preliminary steps regarding placing the Property up for sale on or about 30 January 2024;
  - b) Notices to Leave dated 19 March 2024 were served on both Respondents by sheriff officer on 20 March 2024 (referring to said Ground 1 and also, erroneously, to Ground 2);
  - c) The appropriate local authority was notified of the application in terms of s11 of the Homelessness etc. (Scotland) Act 2003 on 14 June 2024; and
  - d) Letterbox service of this application was made on both Respondents by sheriff officers on 16 January 2025.
4. At all times the Tribunal was aware that in relation to this eviction case, it required to be satisfied not only that the formal requirements regarding same had been complied with but also that it was reasonable to make the order for repossession.

#### **CASE MANAGEMENT DISCUSSION on 26 FEBRUARY 2024**

5. The CMD took place by teleconference and duly commenced shortly after 10am. A director of the Applicant, Mrs Catherine Robson, attended along with Duncan Hamilton, Solicitor, from said agents.  
Neither Respondent attended, nor did any representative on their behalf.
6. By submission to the Tribunal and in response to questions then asked by the Tribunal, Mrs Robson and Mr Hamilton advised and confirmed:--
  - a) There had been some discussion previously, possibly around 27 January 2025 ie after service of this application, with at least one of the Respondents about them leaving the Property but they advised they needed local authority assistance to obtain new accommodation;
  - b) The house would be sold to finance the purchase of Mrs Robson's daughter's share in another property, thus releasing funds to let her daughter purchase property in London, to where she was requiring to move for employment related reasons in relation to her employment as a nurse;
  - c) The reference in the Notice to Leave to Ground 2 was erroneous and could be excused since said Notice contained the ground actually being relied on by the Applicant;

- d) The First Respondent had generally taken more to do with administrative matters regarding the tenancy eg regarding a rent arrears issue and had given some indication the Second Respondent had already moved out, possibly at the end of 2023/beginning of 2024 or so; and
  - e) If the application was granted, the Property would be made ready and put up for sale just as soon as reasonably practicable;
7. The Applicant was then content for the Tribunal to consider the application based on the information contained in the case papers and as advised at the CMD.

### **FINDINGS IN FACT**

- 8. The parties entered into a PRT for the Property commencing 1 January 2022.
- 9. The Applicants now intend to sell the Property, or at least put it up for sale, within 3 months of the Respondents ceasing to occupy it.

### **REASONS FOR DECISION**

10. Based on the information available to it from the case papers and the Applicant as advised at the CMD and in the absence of any opposition either stated at the CMD or submitted in writing, the Tribunal was satisfied of the Applicant's intention to sell the Property, or at least put it up for sale, within 3 months of the Respondents ceasing to occupy it.
11. Accordingly, the Tribunal was content it was just and reasonable to make the order sought.

### **DECISION**

12. To grant the order for eviction sought by the Applicant.

### **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.**

**SR QUITHER**  
**Legal Member/Chair**

**28 FEBRUARY 2025**  
**Date**