



**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 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)**

**Chamber Ref: FTS/HPC/EV/24/3788**

**Re: Property at 3 Laidon Terrace, Dundee, DD3 8PJ (“the Property”)**

**Parties:**

**Irene Bodie, 76 Muirfield Crescent, Dundee, DD3 8PY (“the Applicant”)**

**Lynmarie Robertson, 3 Laidon Terrace, Dundee, DD3 8PJ (“the Respondent”)**

**Tribunal Members:**

**Nicola Weir (Legal Member) and Mary Lyden (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession of the property be granted.**

**Background**

1. By application received on 19 August 2024, the Applicant applied to the Tribunal for an order for recovery of possession of the Property in terms of Section 51 of the 2016 Act against the Respondent. The application sought recovery in terms of Ground 1 of Schedule 3 to the 2016 Act (landlord intends to sell). Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, the Notice to Leave/proof of service of same, the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003 and evidence in support of the ground, namely communications from Gilson Gray’s estate agency services confirming their instructions in respect of the proposed valuation/marketing of the Property.

2. Following initial procedure, on 9 September 2024, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. Notification of the application and details of the Case Management Discussion ("CMD") fixed for 27 March 2025 was served on the Respondent by way of Sheriff Officer on 20 February 2025. In terms of said notification, the Respondent was given until 8 March 2025 to lodge written representations. No written representations were lodged by or on behalf of the Respondent prior to the CMD.
4. On 10 March 2025, the Applicant's representative lodged their written submissions on reasonableness in support of the Applicant's application for eviction.

### **Case Management Discussion**

5. The Case Management Discussion ("CMD") took place by telephone conference call on 27 March 2025 at 2pm. Initially neither party was in attendance, although Mr Runciman of Gilson Gray LLP, the Applicant's solicitors subsequently attended. He explained that Mr Gray, who was dealing with the case, was having technical difficulties joining the call and he was attending in his stead. He confirmed that the eviction order was still sought and that there was no change in the Applicant's position since Mr Gray's written submissions were lodged on 10 March 2025. Mr Gray also made contact with the Tribunal Clerk to confirm that he would be happy for the Tribunal to deal with the matter on the basis of his written submissions. The Respondent did not attend the CMD.
6. The Tribunal Members conferred and indicated that they were happy to deal with the matter on this basis and thanked Mr Runciman for attending and confirming the position to the Tribunal. After Mr Runciman had left the call, the Tribunal Members conferred again and having regard to all of the information before it, including the detailed written submissions on behalf of the Applicant, decided to grant the eviction order sought.

### **Findings in Fact**

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 4 April 2023.
3. The Applicant intends to sell the Property and to market it for sale as soon as possible and within 3 months of obtaining vacant possession, having already instructed an estate agent in the matter.

4. A Notice to Leave in proper form and giving the requisite period of notice (84 days) was served on the Respondent by Sheriff Officer on 14 May 2024, in accordance with the terms of the tenancy agreement.
5. The date specified in the Notice to Leave as the earliest date the eviction Application could be lodged with the Tribunal was specified as 7 August 2024.
6. The Tribunal Application was submitted on 19 August 2024.
7. The Respondent stated to the Sheriff Officers who served the Tribunal papers on behalf of the Tribunal on 20 February 2025 that she had already moved out of the Property.
8. The Applicant has not been formally notified by or on behalf of the Respondent that she has vacated the Property.
9. The Respondent has not returned her keys to the Property and the Applicant is unaware if she has moved out or removed her belongings.
10. There are rent arrears owing by the Respondent who has not paid any rent since August 2024.
11. The Applicant wishes to sell the Property for financial reasons and due to her age and personal circumstances.
12. The Respondent did not lodge any written representations nor attend the CMD.

### **Reasons for Decision**

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, the information provided to the Tribunal by the Sheriff Officers who served the papers on the Respondent on 20 February 2025, the detailed written submissions lodged in advance of the CMD on behalf of the Applicant and the oral information provided at the CMD by Mr Runciman on behalf of his colleague, Mr Gray, the Applicant's representative.
2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the requisite period of notice (84 days) had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the tenancy agreement and the relevant provisions of the 2016 Act.
3. The Tribunal considered that the ground of eviction, that the landlord intends to sell (Ground 1 of Schedule 3 to the 2016 Act, as amended) was satisfied in that all elements of Ground 1 were met and that it was reasonable, having regard to all of the circumstances known to the Tribunal, to grant the eviction order sought. The Tribunal had noted that there was supporting documentation with

the application from an estate agent who was instructed to value/market the Property with a view to it being sold once vacant possession had been obtained. It was noted from the written submissions that the Applicant is 75 years old, retired, that the current mortgage in relation to the Property was soon to reach the end of its term and that she was unlikely to obtain another mortgage (and nor did she wish to do so). She had been reliant on the rental income from the Property, to cover the mortgage and other ongoing costs and the rental arrears had therefore caused her financial difficulty. The Tribunal was satisfied from the information provided that the Applicant has a genuine intention to sell as soon as possible, for the reasons stated and that an estate agent was already instructed.

4. The Tribunal also noted the information that had provided in the written submissions regarding the Respondent's circumstances. It was noted that the Respondent was understood to be 56 years old, to now live alone and to be in employment. The Applicant's letting agent last had communication from the Respondent around April 2024 in respect of the rent arrears situation but she had not engaged with them since and failed to respond to them in October 2024 in connection with their wish to carry out a routine inspection. Although the Respondent stated to the Sheriff Officers serving the Tribunal papers in February 2025 that she had already moved out of the Property, the Applicant's representative explained that the Applicant and his agents had no verification of this and did not know whether or not the Respondent may still be in occupation. No formal notice had been given by the Respondent and nor had she handed back the keys. Accordingly, the Tribunal understood the Applicant's wish for a formal eviction order to be granted. The Tribunal was satisfied that the Respondent was aware of the Tribunal proceedings and had chosen not to make written representations on her own behalf nor attend the CMD. In all the circumstances, the Tribunal considered it reasonable to grant the eviction order sought.
5. The Tribunal did not have any material before it to contradict the Applicant's position, nor to indicate that the Respondent was opposing the eviction. The Tribunal accordingly determined that an order for eviction could properly be granted at the CMD as there were no facts in dispute nor any other requirement for an Evidential Hearing.

### **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.**

# **N. Weir**

**Legal Member/Chair**

**27 March 2025**  
**Date**