



**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/24/3296**

**Re: Property at 3/2, 2 Byres Road, Glasgow, G11 5JY (“the Property”)**

**Parties:**

**Mr Oliver Roberts, 181 Major Hornbrook Road, Mt Pleasant, New Zealand, 8081, New Zealand (“the Applicant”)**

**Ms Virginia Murray, 3/2, 2 Byres Road, Glasgow, G11 5JY (“the Respondent”)**

**Tribunal Members:**

**Andrew Cowan (Legal Member) and Sandra Brydon (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 eviction should be granted in favour of the Applicant.**

**Background**

1. This is an application by the Applicant for an eviction order in relation to a Private Residential Tenancy (“PRT”) in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The PRT had been granted by the Applicant to the Respondent commencing on 6<sup>th</sup> June 2018.
2. The application was submitted to the Tribunal by email on 18<sup>th</sup> July 2024,
3. The application relied upon a Notice to Leave dated 16<sup>th</sup> April 2024, issued in terms of section 50 of the *Private Housing (Tenancies) (Scotland) Act 2016*, served upon the Respondents by email, all in accordance with the provisions of the PRT. The Notice relied upon Ground 1 of Schedule 3 Part 1 of the 2016 Act, being that “the landlord intends to sell”. The Notice to Leave

intimated that an application to the Tribunal would not be made before 13<sup>th</sup> July 2024.

4. Evidence of a section 11 notice in terms of the *Homelessness Etc. (Scotland) Act 2003* served by email upon Glasgow City Council on 18<sup>th</sup> July 2024 was included in the application papers.
5. The Applicant had also exhibited correspondence with DJ Alexander Limited, which confirmed that the Applicant had instructed that company, as sole selling agents, to take forward the sale of the Property.
6. By email dated 1<sup>st</sup> April 2025 the Applicant had lodged a statement with the Tribunal in which he had set out the reasons for wishing to sell the Property. He also lodged a rent statement in relation to the Respondent's lease of the Property which disclosed that the Respondent was in rent arrears in the sum of £8379.35 as of 1<sup>st</sup> March 2025.

## **The Hearing**

7. The matter called for a case management discussion ("CMD") of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 7<sup>th</sup> April 2025.
8. The Applicant did not join the conference call, but he was represented on the call by Mr Martin Urquhart, from D.J. Alexander, Letting Agents. The Applicant had given Mr Urquhart authority to act on his behalf in relation to this application.
9. The Respondent did not join the CMD call. The Tribunal were satisfied that the Application, and details of the CMD, had been intimated upon the Respondent by Sheriff Officers on 28<sup>th</sup> February 2025. The Respondent has not made any written representations to the Tribunal in advance of the CMD. The Tribunal is satisfied that the Respondent has been given reasonable notice of the date, time and place of the CMD and that the requirements of rule 24(1) of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Procedure Rules") have been duly complied with. In the circumstances the Tribunal proceeded with the application in accordance with rule 29 of those Procedure Rules.
10. At the CMD, the Applicant's representative confirmed that the application for eviction was insisted upon. In his written statement to the Tribunal the Applicant explained that he is now resident in New Zealand and that he is unlikely to return to reside in the United Kingdom. The Applicant has a mortgage over the property of £110,000. He requires to pay £645 per month towards that mortgage. The rent due in terms of the tenancy agreement between the parties is now £818.85 per month. The Respondent has not paid rent due since May 2024 and has now accrued rent arrears in the sum of

£6741,65 as at the start of March 2025. The Respondent further explained that he has required to pay for maintenance and repair costs at the Property (including window replacement costs) in the sum of £12500. The Respondent has explained that the overall costs associated with the maintenance of the Property, the liability for ongoing mortgage costs and the Respondent's failure to pay rent are causing financial and mental strain. For economic reasons the Applicant has decided to sell the Property and has appointed agents to market and sell the Property as soon as he can gain vacant possession. Mr Urquhart confirmed to the Tribunal that, as at the date of the CMD, the Respondent had made no further payments towards the rent arrears due. Mr Urquhart explained that numerous efforts had been made to contact and engage with the Respondent to discuss the application and the rent arrears, but that the Respondent had failed to respond to any of those efforts.

11. The Applicant has exhibited to the tribunal copies of correspondence with his estate agents, which confirms that those agents are instructed to proceed to market the Property for sale.

### **Findings in Fact and Law**

12. The Applicant let the Property to the Respondent under a Private Residential Tenancy which commenced on 6<sup>th</sup> June 2018 ("the Tenancy").
13. Notice to Leave was emailed to the Respondent on 16<sup>th</sup> April 2024. The notice to leave relied upon Ground 1 of Schedule 3 part 1 of the 2016 Act.
14. A section 11 notice in the required terms of the *Homelessness Etc. (Scotland) Act 2003* was served upon Glasgow City Council on the Applicant's behalf on 18<sup>th</sup> July 2024.
15. The Applicant has instructed agents to market and sell the Property on his behalf.
16. The Respondent has accrued rent arrears in the sum of £8379.35 as of 1<sup>st</sup> March 2025. The Respondent continues to fail to meet her obligations to pay rent under the contractual terms of the tenancy between the parties.
17. The Applicant intends to sell the Property, and it is reasonable that an order for eviction is granted.

### **Reasons for Decision**

18. The application is in terms of rule 109, being an order for eviction of a PRT. We were satisfied on the basis of the application and supporting papers that the Notice to Leave had been competently drafted and served upon the Respondent.

19. Ground 1 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:

(1.)...the landlord intends to sell the let Property.

(2.) The First-tier Tribunal may find that the ground named by sub-paragraph

(1) applies if the landlord –

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.

(2) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example) –

(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let Property,

(b) a recently prepared document that anyone responsible for marketing the let Property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the Property already on the market.

20. The Applicant has engaged agents to sell the Property. The Applicant wishes to sell the Property as he no longer considers that it is financially viable to let the Property. We were satisfied on the evidence that the Applicant has a genuine intention to sell the Property and that Ground 1 of Schedule 3 to the 2016 Act had been established.

21. The Tribunal also considered whether it was reasonable to issue an eviction order.

The Tribunal accept that the Applicant wishes to sell the Property as it is no longer financially viable for him to continue to let this Property. The Applicant has incurred significant expenditure in maintaining the Property. The Respondent has stopped paying rent due and has incurred significant rent arrears. The Respondent has failed to engage with the Applicant or his agents to discuss those arrears of rent.

The Respondent has not entered an appearance before the Tribunal and has not provided any written opposition to the Tribunal.

In all the circumstances the Tribunal are satisfied that it is reasonable to grant an order for eviction.

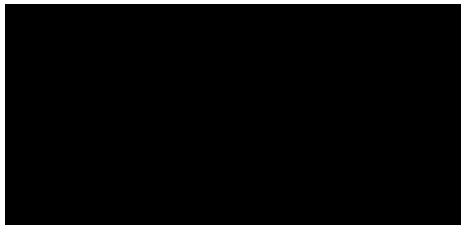
22. The Tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

## **Decision**

23. In all circumstances, we grant an order against the Respondent for eviction from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 further to ground 1 of Schedule 3 of that Act.

## **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.**



**Legal Member/Chair**

**7<sup>th</sup> April 2025**

**Date**