

**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/24/4300**

**Re: Property at 43 Grange Street, Motherwell, ML1 2AW (“the Property”)**

**Parties:**

**Mrs Margaret Wotherspoon, 35 Inveraron Drive, Motherwell, ML1 3BQ (“the Applicant”)**

**Ms Eileen McCann, 43 Grange Street, Motherwell, ML1 2AW (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member) and Melanie Booth (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction relying on ground 1 (landlord intends to sell) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The Tribunal determined that it was reasonable to suspend enforcement of the order until 4 July 2025.**

**Background**

1. By application dated 10 September 2024 the applicant seeks an order for eviction on the ground that she intends to sell the property.
2. The applicant lodged the following documents with the application:
  - Copy tenancy agreement
  - Notice to leave with proof of service
  - Section 11 notice
  - Correspondent from Igloo regarding instructions to sell

3. A case management discussion (“cmd”) was assigned for 4 April 2025

#### **Case management discussion – 4 April 2025- teleconference**

4. The applicant was represented by Donna Marie Stewart, Head of Lettings at Igloo. The applicant’s husband, Bob Wotherspoon was also in attendance. The respondent was represented by Mr Melvin, Coatbridge Citizens Advice Bureau.
5. Ms Stewart sought an order for eviction relying on ground 1. She stated that the applicant’s intention remained to sell the property. She stated that the applicant and her husband are both 71 years old. They have made the decision that they want to sell the property. Ms Stewart confirmed that her firm has been instructed to sell the property. No home report has as yet been instructed as they applicant is waiting to see if an order will be granted. Ms Stewart stated that the respondent is 80 years old. She had indicated that she is not happy living at the property and did not wish to oppose the application. Ms Stewart indicated that the applicant was open to extending the period before enforcement of any order to allow the respondent time to make arrangements for alternative accommodation.
6. Mr Melvin confirmed that the respondent does not oppose an order for eviction however she is seeking to suspend enforcement of the order until 4 July 2025. Mr Melvin explained that the respondent is 80 years old. He had assisted her to apply for housing from the local authority. Mr Melvin stated that he would be working with the local authority to ensure that suitable housing is available for the respondent when the order becomes enforceable. He stated that suspending enforcement until 4 July 2025 should give the local authority time to source suitable accommodation which would avoid the respondent having to go into temporary accommodation. Mr Melvin stated that the respondent was in good health.
7. Ms Stewart confirmed that the applicant had no objection to the order being suspended until 4 July 2025.

#### **Findings in fact and law**

8. Parties entered into a private rented tenancy agreement with a commencement date of 30 October 2020.
9. The applicant is the sole owner of the property.

10. The applicant intends to sell the property.
11. The respondent is on the local authority waiting list for housing
12. The respondent is being assisted by Mr Melvin at Coatbridge Citizens Advice Bureau in relation to her application for alternative accommodation from the local authority.
13. It is reasonable to grant an order for eviction
14. It is reasonable to vary the date of enforcement of the eviction order until 4 July 2025.

### **Reasons for the decision**

15. Ground 1 states:

*(1) It is an eviction ground that 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.*

*(3) 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.*

16. The Tribunal accepted the evidence that the applicant intended to sell the property. This was not disputed by the respondent.
17. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an

order all available facts relevant to the decision were considered and weighed in the balance, for and against

18. The Tribunal gave significant weight to the fact that the respondent did not oppose the order for eviction being granted and made no objection to the reasonableness of the order being granted.
19. In relation to the respondent's request to vary the date of execution to 4 July 2025 for her to secure alternative accommodation the Tribunal determined that this was a reasonable period to defer execution. The Tribunal gave weight to the fact that the respondent was being assisted by the Citizens Advice Bureau in relation to her application for suitable local authority accommodation. The application to suspend enforcement until 4 July 2025 was not opposed. The Tribunal determined that in light of the foregoing factors a suspension of enforcement until 4 July 2025 was reasonable.

### **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.**

# Mary-Claire Kelly

**Legal Member/Chair**

**Date 4<sup>th</sup> April 2025**