



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 17(4) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) in respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the Rules**

**Chamber Ref: FTS/HPC/EV/24/4904**

**Re: Property at 32 Mavisbank Gardens, Bellshill, ML4 3ES (“the Property”)**

**Parties:**

**Mr Ian Watson and Mrs Fiona Watson, residing at 6 Brierie Lane, Crosslee, Johnstone, PA6 7LS (“the Applicants”) per their agents, Messrs. Bannatyne Kirkwood France & Co, 16, Royal Exchange Square, Glasgow, G1 3AG (“the Applicants’ Agents”)**

**Mr Darren Smith, 32 Mavisbank Gardens, Bellshill, ML4 3ES (“the Respondent”)**

**Tribunal Members:**

**Karen Moore (Legal Member) and Elizabeth Dickson (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory ground being established and the statutory procedure having been carried out, it is reasonable to grant the Order sought and so the Tribunal granted the Order.**

**Background**

1. By application received on 24 October 2024 (“the Application”), the Applicants’ Agents on behalf of the Applicants applied to the Tribunal for an

Order for eviction and possession of the Property based on Ground 1 of Schedule 3 to the 2016 Act, that the landlord intends to sell the let property. .

2. The Application comprised the following:
  - i) copy private residential tenancy agreement between the Parties;
  - ii) copy Notice to Leave in terms of Ground 1 of Schedule 3 to the Act dated 4 July 2024 with proof of service;
  - iii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to North Lanarkshire Council being the relevant local authority;
  - iv) copy letter of engagement from Your Move McLaughlin, estate agents evidencing intention to sell.
3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the "CMD") was fixed for 8 May 2025 at 14.00 by telephone conference. The CMD was intimated to both Parties.

#### **CMD**

4. The CMD took place on 8 May 2025 at 14.00 by telephone. The Applicants were not present and were represented by Mr. J. Deane of the Applicants' Agents. The Respondent, Mr. Smith, was present and was not represented.
5. Mr. Deane confirmed that the Applicants sought an eviction Order.
6. The Tribunal explained the purpose of the CMD and that advised that it was satisfied that the statutory procedure for the Application had been carried out correctly and that it was satisfied that the Ground for the Order was met. The Tribunal explained that it was required also to consider the reasonableness of the Application.
7. Mr. Smith stated that he was not opposed to vacating the Property but had no alternative accommodation. He explained that he is a divorced man who lives alone and stated that his fourteen year old son resides with him often. He explained that his son usually resided with him every second weekend but recently resides with him more frequently. Mr. Smith advised the Tribunal that he is self-employed in the construction industry. He stated that he has approached North Lanarkshire Council for housing and had been advised to wait until an eviction order is granted. Mr. Smith stated that the Property is a two bedroomed semi-detached house and that it suffers from dampness and mould which the landlord has not attended to.

8. In respect of the Applicants' personal circumstances, Mr. Deane explained that both Applicants are retired and are selling their portfolio of four rental properties, of which the Property is one, to fund their retirement and as they no longer wish to act as landlords,

### **Findings in Fact**

9. From the Application and the CMD, the Tribunal made the following findings in fact: -
  - i) There is a private residential tenancy of the Property between the Parties;
  - ii) The Applicants are of retirement age;
  - iii) The Applicants no longer wish to act as landlords;
  - iv) The Applicants are in the process of selling their small portfolio of properties to fund their retirement;
  - v) The Applicants intend to sell the Property;
  - vi) The Respondent remains residing in the Property;
  - vii) The Respondent is a single man who is self-employed;
  - viii) The Respondent's fourteen year old son frequently resides with him;
  - ix) The Respondent has sought alternative accommodation from the local authority;
  - x) The Respondent does not oppose the Application but requires alternative accommodation in order to vacate the Property.

### **Decision and Reasons for Decision**

10. The Tribunal had regard to all the information before it and to its Findings in Fact.
11. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussion .....including making a decision*". The Tribunal took the view that it had sufficient information to make a decision and so proceeded to determine the Application.
12. The statutory ground and procedure being established, and the Application not being opposed, the issue for the Tribunal was to determine if it is reasonable to grant the Order.
13. The Tribunal had regard to the circumstances of the Parties.
14. The Tribunal must establish, consider and properly weigh the "whole of the circumstances in which the application is made" (Barclay v Hannah 1947 S.C. 245 at 249 per Lord Moncrieff) when deciding whether it is reasonable to grant an order for possession.

15. The Tribunal then looked to balance the rights and interests of both parties.

16. The Tribunal accepted that the Applicants are of retirement age, no longer wish to be landlords and are disposing of their property portfolio.

17. The Tribunal noted that the Respondent does not oppose the Application and remains residing there as he cannot secure alternative accommodation for himself and his but has fourteen year old son. With regard to alternative accommodation, the Tribunal had regard to the fact that, if evicted and made homeless, the Respondent would have protection in terms of Part II of the Housing (Scotland) Act 1987 and so would be able to access advice and assistance on homelessness.

18. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction order.

19. This decision is unanimous.

### **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.**

# K. Moore

**Legal Member/Chair**

**8 May 2025  
Date**

