



**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/24/5828**

**Re: Property at Serasa, Gasstown, Dumfries, DG1 3JP (“the Property”)**

**Parties:**

**Ms Kathleen MacDonald Wilson, Mr John Andrew Malthouse, Bellmont, Gasstown, Dumfries, See paper apart; Bellmont, Gasstown, Dumfries, DG1 3JP (“the Applicant”)**

**Ms Marie McLachlan, Serasa, Gasstown, Dumfries, DG1 3JP (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision**

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

**Background**

1. An application was received by the Housing and Property Chamber dated 20<sup>th</sup> December 2025. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 4 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 14<sup>th</sup> July 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 28<sup>th</sup> August 2025 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 4<sup>th</sup> August 2025.

3. On 23<sup>rd</sup> July 2025, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 23<sup>rd</sup> July 2025.

#### The Case Management Discussion

4. A CMD was held on 28<sup>th</sup> August 2025 at 2pm by teleconferencing. The Applicant was not present but was represented by Mr Andrew Melville, Solicitor, Harper McLeod LLP.
5. Mr Melville stated that the Applicants position was as it was in the lodged papers namely that they wish to move into the Property. The Applicants have various health conditions which would be more suited to living in this Property. At the moment one of the Applicants walks with a stick but there may be further mobility issues in the future which require a ramp. This property has a ramp. This is their only let property. They intend to sell their current property to move into this one.
6. The Respondent said that she was not opposed to an order being granted. She has been told her by local authority that she will be rehoused to a similar sized house once she has an order for eviction granted against her. She has ulcerative colitis which requires monthly treatment. It causes her significant difficulties she considers that it would be better for her to be in a more suitable property that would meet her needs. She lives in the Property with her two daughters who are 5 years old and 22 years old. Her 22 year old daughter is a student nurse.
7. There was discussion about amending the application to include ground 12. The Respondent did not oppose that amendment. She has not paid the Applicants recently due to their acrimonious relationship. Due to her ill health she has had to stop working. She did not claim Universal Credit when she first stopped working. She has now applied for it and a payment will be made on 11<sup>th</sup> September 2025 for £500. The Tribunal did not amend as they did not have evidence of Pre Action Requirement letters. As there was sufficient evidence for ground 4 and the Respondent was not opposed to an order being granted, the exclusion of this ground was not considered prejudicial to the Applicants.
8. The Tribunal considered it reasonable to grant an order for eviction.

#### Findings and reason for decision

9. A Private Rented Tenancy Agreement commenced 8<sup>th</sup> May 2021.
10. Due to health reasons the Applicants now wish to live in the Property.
11. The Respondent does not oppose an order being granted as she has health conditions which would be better suited in another property.
12. The Respondent is to be rehoused by her local authority once an eviction order has been granted.

13. There are no issues of reasonableness that prevent an order from being granted.

### Decision

14. The Tribunal found that ground 4 has been established and granted an order in favour of 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.**

**Gabrielle Miller**

**28<sup>th</sup> August 2025**

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**Legal Member/Chair**

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**Date**