



**Decision 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/19/3668**

**Re: Property at 82 Montgomery Street, Larkhall, ML9 2AD (“the Property”)**

**Parties:**

**Mr Jonathan Stead, 4 Inglis Brae, Blackwood, ML11 9GS (“the Applicant”)**

**Mr Craig Brown, 82 Montgomery Street, Larkhall, ML9 2AD (“the Respondent”)**

**Tribunal Members:**

**Lesley A Ward (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the eviction of Mr Craig Brown from the property at 82 Montgomery Street Larkhall ML9 2AD be made on the ground that the applicant wishes to sell the property.**

**2. This is a case management discussion ‘CMD’ regarding an application for ground 1 eviction in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’ and s52 of the Private Housing (Tenancies)(Scotland) Act 2016, ‘the Act’. The applicant was represented by Mr Barry Munro of GBS Lets. The respondent did not attend and was not represented. The tribunal had sight of the sheriff officer’s execution of service dated 12 February 2020 confirming that service of the application and CMD notification had been effected on that date. The tribunal was satisfied that the respondent had been given appropriate notification in terms of rule 24 and proceeded with the CMD in the respondent’s absence in terms of rule 29.**

**3. The tribunal had before it the following copy documents:**

- Application dated 14 November 2019 and received by the tribunal on that date.
- Private residential tenancy agreement.
- Notice to leave.
- Email with service of notice to leave.
- Land certificate.
- Affidavit executed by applicant.
- S11 notice on the local authority.

#### **4. Discussion**

Mr Munro on behalf of the applicant was seeking an eviction order today. He stated that his firm sold the property to the applicant and would be instructed to sell once the tenant had left. A survey report was not yet possible as the tenant was still occupying the property but a surveyor had given a verbal valuation based on the external appearance of the property.

#### **5. Findings in fact and law**

- The applicant is the owner of the property.
- The applicant entered into a private residential tenancy with the respondent for let of the property on 21 May 2019.
- The applicant intends to sell the property.
- The applicant served the respondent with a valid notice to leave dated 11 October 2019 on that date by email.
- The notice to leave required the respondent to leave the property by 10 November 2019.
- The respondent continues to reside in the property.

#### **6. Reasons**

This was an undefended application for eviction on ground 1 of schedule 3 of the Act. The applicant swore an affidavit on 11 October 2019 which stated that he intends to sell the property. His representative gave further details of his intentions at the CMD. At the date of the notice to leave the respondent had resided in the property less than 6 months. 28 days' notice is therefore appropriate. The tribunal had sufficient information before it to make a decision and the procedure had been fair. The tribunal accordingly granted the eviction order sought.

#### **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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

16 March 2020

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Lesley A Ward Legal Member

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Date