



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber)**

**Chamber Ref: FTS/HPC/EV/22/2099**

**Re: Property at 51 Waverly Street, Bathgate, EH48 4HX (“the Property”)**

**Parties:**

**Mrs Helen Brady, 3 Blackburnhall Holdings, Blackburn, West Lothian, EH47  
7AB (“the Applicant”)**

**Mr Jaroslaw Sutowicz, 51 Waverly Street, Bathgate, EH48 4HX (“the  
Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member) and David Fotheringham (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that**

**BACKGROUND**

1. By lease dated 14<sup>th</sup> August 2016 the Applicant let the Property to the Respondent. The lease was a short assured tenancy in terms of the Housing (Scotland) Act 1988 (“the 1988 Act”);
2. On 31<sup>st</sup> March 2022 a Notice to Quit and a Notice in terms of Section 33 of the 1988 Act were served upon the Respondent;
3. A Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority;
4. Thereafter, an application was presented to the Tribunal seeking an Order for eviction;

5. A Case Management discussion was assigned to be heard by teleconference at 2pm on 11<sup>th</sup> November 2022. The Applicant was represented by Mr Lewis Bryan of Sneddon Morrison Solicitors. The Respondent telephoned to join the Case Management Discussion. He was assisted by a family member, Mr Tomasz Tracz who advised the Tribunal that the Respondent was Polish, did not speak English and he had joined to provide translation services;
6. The Tribunal then adjourned the Case management Discussion to enable an interpreter appointed by the Tribunal to attend to ensure the proceedings were properly conducted;

## **THE CASE MANAGEMENT DISCUSSION**

7. A Case Management Discussion was assigned to be heard by teleconference at 10am on 27 January 2023. The Applicant was represented by Mr Lewis Bryan of Sneddon Morrison Solicitors, Livingston. The Respondent participated in the Case Management Discussion. He was not represented but had the assistance of a Polish interpreter, Mr Piotr Jankiewicz of Global Connect;
8. Mr Sutowicz advised the Tribunal that he has been living in the Property for a number of years. He has been looking around for alternative rented accommodation but has not found anything he can afford;
9. He advised the Tribunal that he was not opposing the application but he needed an eviction order to assist him in his dealings with West Lothian Council to obtain local authority accommodation;
10. He advised he is 47 years of age. He is employed. He lives with his partner who is 51 years of age. She is employed on a part time basis. He has two children aged 22 years and 8 years. His daughter aged 22, is presently at college. His son is at a local Primary School;
11. Mr Bryan advised the Tribunal that the Applicant was wishing to recover possession of the Property with a view to it being sold. She is retiring from the business of letting property. Mr Bryan understands she has another two properties at present;
12. It was confirmed by both parties that rent has been paid on an ongoing basis. The Application for the eviction order is based purely for the reasons stated by Mr Bryan;
13. Discussion thereafter took place in relation to the date upon which an eviction may be enforced if the Tribunal was to grant such an order. The Tribunal allowed an adjournment to enable Mr Bryan to obtain instructions from his client. When the Tribunal resumed, Mr Bryan confirmed that his client had no difficulty with any enforcement date for an eviction order being longer than minimum 30 days the Tribunal would normally allow;

14. In the circumstances, the Tribunal granted an eviction order but provided that, if it is necessary for it to be enforced, that can be done no sooner than 12 Noon on Friday 28 April 2023;

## **FINDINGS IN FACT**

15. The Tribunal found the following facts to be established:-
- a. By lease dated 14<sup>th</sup> August 2016 the Applicant let the Property to the Respondent;
  - b. The lease was a short assured tenancy in terms of the 1988 Act;
  - c. On 31<sup>st</sup> March 2022 a Notice to Quit and a Notice in terms of Section 33 of the 1988 Act were served upon the Respondent;
  - d. A Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority;
  - e. It is reasonable to grant an order for eviction;

## **REASONS FOR DECISION**

16. The Tenancy is a Short Assured Tenancy in terms of the 1988 Act. The necessary notices required to enable the Tribunal to grant an Eviction Order had been served upon the Respondent and the Local Authority;
17. The Tribunal thereafter required to consider the issue of reasonableness. In determining that it was reasonable to grant an eviction order the Tribunal took the following matters into account:-
- a. The Respondent did not oppose the application;
  - b. The Respondent had already been engaging with the Local Authority to obtain alternative accommodation but required an eviction order to be granted to assist that process;
  - c. The Respondent, and his family, have been aware of the wish of the Applicant to recover possession for a significant period of time, the notice to quit and the notice in terms of s33 of the 1988 Act having been served as far back as 31 March 2022;
  - d. The family unit comprises of three adults and an 8 year old child. The 8 year old child is at a local primary school and the Respondent has requested the Local Authority to provide accommodation in the Bathgate area in order that the schooling of the child will not be interrupted;
  - e. The wish of the Applicant to retire from the business of letting property and realise her assets for her retirement is understandable and reasonable;
  - f. The Applicant is willing to agree to the date for enforcement of any order to be some time in the future to allow the Respondent further time to secure suitable alternative accommodation.

## **DECISION**

The Tribunal grants order to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings furth and from the Property at 51 Waverly Street, Bathgate, EH48 4HX and to make the same void and redd that the Applicant or others in their name may enter thereon and peaceably possess and enjoy the same.

Order not to be executed prior to 12 noon on 28 April 2023

### **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.**

# Virgil Crawford

27 January 2023

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Legal Member/Chair

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Date