



**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/22/2042**

**Re: Property at 28 Craigroyston Place, Edinburgh, EH4 4DJ (“the Property”)**

**Parties:**

**Mr Ryan McKiernan, 4 Jardine Place, Edinburgh, EH15 3FG (“the Applicant”)**

**Mr Kurtulus Altas, 28 Craigroyston Place, Edinburgh, EH4 4DJ (“the Respondent”)**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and David Fotheringham (Ordinary Member)**

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

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

**Respondent”)**

At the Case Management Discussion (“CMD”), which took place by telephone conference on 15 November 2022, the Applicant was present and was represented by Mr Gregor Fortune of Gregor Fortune Property Limited, Edinburgh. The Respondent was neither present nor represented and had lodged no written representations.

The CMD was in respect of this matter and the related case bearing reference FTS/HPC/CV/22/3794.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

## **Background**

The Tribunal noted the following background:-

- i. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") signed on 25 February 2022 and that commenced on 1 March 2022.
- ii. The rent payable in terms of the PRT is £900 per month payable monthly in advance on the first day of each month.
- iii. A deposit of £900 was paid in terms of the PRT.
- iv. That on 12 April 2022, the Applicant served on the Respondent by recorded delivery post a Notice to Leave requiring the Respondent remove from the Property by 13 May 2022 on the basis that the Applicant intended to live in the Property.
- v. That the Applicant has served on City of Edinburgh Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

## **The CMD**

At the CMD Mr Fortune for the Applicant and the Applicant made the following representations in respect of this application:-

- i. The Respondent is in occupation of the Property and lives in the Property alone.
- ii. The Respondent works at a premises in Davidsons Mains, Edinburgh.
- iii. Mr Fortune had previously asked a neighbour at the Property to let him know if the Respondent moved out of the Property but he had not heard anything to that effect.
- iv. Mr Fortune would previously visit the Respondent at his place of work to speak with him.
- v. Mr Fortune's last contact with the Respondent was on 24 October when he tried to call him and sent a text too. He had no response.
- vi. The Applicant and his wife separated in May 2021. There are two children of the marriage aged 13 and 17 years.
- vii. Since their separation the Applicant has lived between his mother's house and his mother-in-law's house. The latter is across from the marital home where the Applicant's wife and children continue to live.
- viii. The Property had been gifted to the Applicant and his wife by his mother-in-law.
- ix. The Property was previously rented by a tenant and the Respondent was her boyfriend. They had been living in the Property for around 2 years. The tenant removed from the Property in December 2021 leaving the Respondent in occupation. Mr Fortune arranged for the Respondent to sign the PRT which he eventually did in February 2022.
- x. The Applicant owns another property which is occupied by his father. He cannot move there nor can he seek to remove his father.
- xi. The Applicant requires to live in the Property so that he can have his children to stay with him.

## **Findings in Fact**

- i. The Applicant and his wife, Nicola McKiernan, are the heritable proprietors of the Property.
- ii. The Applicant leased the Property to the Respondent in terms of the PRT.
- iii. The rent payable in terms of the PRT is £900 per month payable monthly in advance on the first day of each month.
- vi. The Respondent is still living in the Property.

- vii. On 12 April 2022, the Applicant served on the Respondent by recorded delivery post a Notice to Leave requiring the Respondent remove from the Property by 13 May 2022 on the basis that the Applicant intended to live in the Property.
- viii. The Applicant has served on City of Edinburgh Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- ix. The Applicant and his wife are separated and there are two teenage children of the marriage.
- x. The Applicant is living between the homes of his mother and his mother-in-law.
- xi. The Applicant wishes to recover possession of the Property to live there as his principal home and to allow his children to stay with him from time to time.
- xii. It reasonable, in the circumstances, that an eviction order be granted in favour of the Applicant.

### **Reasons for Decision**

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally at the CMD was not challenged and was accepted by the Tribunal.

The Tribunal considered whether or not it would be reasonable to grant an eviction order and determined that it is reasonable to grant an eviction order under Ground 4 of Schedule 3 of the 2016 Act on the basis that the Applicant requires to occupy the let Property.

### **Decision**

The Tribunal granted an eviction 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.**

# G. Buchanan

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Legal Member/Chair

**15 November 2022**  
Date