

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**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/21/1531**

**Re: Property at 135 Earlston Crescent, Coatbridge, ML5 4UJ (“the Property”)**

**Parties:**

**Mr Christopher Miller, 68 Earlston Crescent, Coatbridge, ML5 4UQ (“the Applicant”), and**

**Friels Solicitors Limited, 180 Bank Street, Coatbridge, ML5 1ET (“the Applicant’s Representative”) and**

**Miss Helen Gray Renwick, 135 Earlston Crescent, Coatbridge, ML5 4UJ (“the Respondent”)**

**Tribunal Members:**

**G McWilliams- Legal Member**

**A Lamont- Ordinary Member**

**Decision in absence of the Respondent**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines that it is reasonable to grant an eviction order as sought in this Application.**

**Background**

1. The Applicant Mr Miller had applied under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules) for an eviction order. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call on 21<sup>st</sup> September 2021. Reference is made to the Notes on the CMD. Two evidential Hearings,

scheduled for 3<sup>rd</sup> November 2021 and 8<sup>th</sup> December 2021 were postponed by agreement of the parties and representatives. A fresh evidential Hearing was scheduled to take place on on 13<sup>th</sup> January 2022. The Respondent Miss Renwick's Representative's Ms N Rylatt informed the Tribunal's office that she did not have further instructions from the Respondent and withdrew from acting on 8<sup>th</sup> December 2021.

### **Evidential Hearing on 13<sup>th</sup> January 2022- Evidence and Submissions**

2. The Applicant and his Representative's Mr P McDermott attended the evidential Hearing on 13<sup>th</sup> January 2022. The Respondent did not attend and was not represented. The Tribunal checked and ascertained that the Tribunal's office had written to the Respondent on 23<sup>rd</sup> December 2021 and 12<sup>th</sup> January 2021. The Respondent had not lodged any representations or papers with the Tribunal's office following her Representative's withdrawal. Mr McDermott stated that he had sent emails directly to the Respondent, to the email address referred to in the parties' Private Residential Tenancy Agreement ("PRT") and in the Application, following her Representative's withdrawal from acting, and had not received replies. In the circumstances the Tribunal considered that the Respondent had been given adequate opportunity to attend, or be represented, at the evidential Hearing, and proceeded with the Hearing in her absence.
3. Mr McDermott referred to the written representations and papers, including the Applicant's Affidavit dated 22<sup>nd</sup> December 2021, an Inventory of Productions and comprehensive written Submissions. He submitted as the Respondent had been effectively served with all papers in respect of the Application for an eviction order, and had not lodged any representations with the Tribunal, nor attended at the Hearing, and given all the evidence in the papers lodged with the Tribunal, it was reasonable that an eviction order should be granted. Mr McDermott also stated that payments towards rent and arrears were continuing to be made through DWP Universal Credit. He said that, as stated in the written Submissions, the current arrears of rent are in the amount of £1150.00.

### **Findings in Fact and Law**

4. The Applicant wishes to sell the Property. He has signed an agreement with an estate agent to do so.
5. The Applicant served notice of his intention to sell the Property on 20<sup>th</sup> November 2020. He subsequently lodged this Application to recover possession of the Property. The Applicant's has complied with necessary legal requirements in respect of his Application.
6. The Respondent has not provided the Tribunal with any information regarding any health conditions or her financial position which may be relevant to the grant of the order sought in the Application. The Respondent has not engaged

with the Tribunal following her Representative's withdrawal from acting for her on 8<sup>th</sup> December 2021.

7. The Respondent is in rent arrears of £1150.00.
8. The Applicant is entitled to the grant of an order for possession of the Property. It is reasonable that such an order be granted.

### **Statement of Reasons for Decision**

9. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
10. Schedule 3, Paragraph 1(1) of the 2016 Act provides that it is an eviction ground that a landlord intends to sell the let property.
11. The Applicant has complied with all necessary legal requirements in respect of his Application. He served notice, on the Respondent, of his intention to sell the Property in November 2020, some 14 months ago. The Respondent has not lodged representations with the Tribunal or attended the Hearing to provide any evidence, and/or make any submissions, opposing the order sought. Having considered the Application, the PRT and all of the evidence and submissions lodged by the Applicant's Representative, as well as the oral submission of Mr McDermott on behalf of the Applicant, the Tribunal is satisfied that the Applicant intends to sell the Property and determines that it is reasonable that an eviction order be granted.

### **Decision**

12. The Tribunal therefore grants an eviction order as sought in this Application.

### **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 McWilliams**

**13<sup>th</sup> January 2022**

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**Legal Member**

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**Date**