



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

**Chamber Ref: FTS/HPC/EV/21/2532**

**Re: Property at 9 Newton Village, Dalkeith, EH22 1SN (“the Property”)**

**Parties:**

**Mr Steven Sneddon, residing at 6 High School Close, Dalkeith (“the Applicant”)**

**Miss Kirima Alam, 9 Newton Village, Dalkeith, EH22 1SN (“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member) and John Blackwood (Ordinary Member)**

**Decision**

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

**BACKGROUND**

1. The parties entered into a Private Residential Tenancy Agreement in terms of which the Respondent rented the Property from the Applicant. The start date of the tenancy was 1<sup>st</sup> August 2019;
2. The property is, in fact, owned in the joint names of the Applicant and his wife, Lea Sneddon. Mrs Lea Sneddon corresponded with the Tribunal confirming that she had consented to the lease proceeding in the sole name of Mr Steven Sneddon and also consenting to the application to the Tribunal proceeding;
3. By application dated 16<sup>th</sup> October 2021, the Applicant sought an Order for eviction of the Respondent from the Property in terms of Ground 4 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016, that being that the Applicant intends to occupy the Property as his only or principal home for at least 3 months;
4. Prior to making the Application to the Tribunal, the Applicant had timeously served a Notice to Leave on the Respondent;
5. The Applicant had intimated a Notice in terms of Section 11 of the Homeless ETC.(Scotland) Act 2003 upon the relevant Local Authority;

## THE CASE MANAGEMENT DISCUSSION

6. A Case Management Discussion was assigned for 2pm on 18<sup>th</sup> February 2022, to be conducted by teleconference. Both parties participated personally in the Case Management Discussion;
7. The Applicant confirmed that he was still seeking an Order for eviction on the same grounds as previously intimated, that being that he required to occupy the property as his only or principal home and would be occupying it for at least 3 months;
8. The Respondent intimated that, in essence, she did not have any opposition to such an Order being granted;
9. Despite the position of the Respondent, the Tribunal required to consider whether or not it was reasonable to grant an Order for eviction in all the circumstances of the case. Accordingly, the Tribunal made further enquiry of each party in relation to their personal circumstances and housing needs;

### **The Applicant**

10. Mr Sneddon advised that, while he is married, he is currently separated from his wife and in the process of divorcing. Solicitors are involved;
11. He previously resided with his wife at the former matrimonial home at 16 Lasswade Road, Dalkeith, EH22 3EF. He has, however, since moved out of that property and was now in rented accommodation. He is now residing at 6 High School Close, Dalkeith;
12. There are two children of his marriage, daughters aged 15 years and 20 years. While the children reside principally with his wife, they visit him twice a week. The children stay over each time they visit but the property he is currently renting has insufficient accommodation for that to be suitable on a long term basis. He advised that the property he is renting is a two bedroomed property, resulting in his daughters requiring to share a bed. Given their ages, that "is not ideal" for them;
13. The Property currently rented to the Respondent is a 3 bedroom property. If he resumes occupation there is a separate bedroom for each of his daughters;
14. In relation to the ongoing divorce proceedings, the proposal between himself and his wife is that the former matrimonial home at Lasswade Road, Dalkeith, will be sold. Mr Sneddon advised that it has, in fact, very recently been placed on the market for sale. It is intended that the Property currently let to the Applicant will be transferred from the joint names of Mr Sneddon and his wife into the sole name of Mr Sneddon. In return for that transfer, as part of the overall settlement process, his wife will retain a larger proportion of the free proceeds of the sale of the former matrimonial home than might normally have been the case. The intention, therefore, is that the property at 9 Newton Village, Dalkeith, EH22 1SN will become the sole property of Mr Sneddon and will become his permanent place of residence. He has no intentions to sell the property either as part of the ongoing divorce proceedings or at any point in the foreseeable future;
15. From the point of view of Mr Sneddon, he needs to move back into the property having regard to his current personal circumstances;

### **The Respondent**

16. The Respondent, Miss Allum, advised that she had no objection to an order for eviction being granted. She explained that she resides at the Property with her 3 children aged 11 years, 9 years and 4 years;
17. The Respondent knows the Applicant and is aware that he is in the process of divorcing his wife and has removed himself from the matrimonial home;
18. Miss Alum advised that she has, in fact, been engaging with the Local Authority for some time seeking to be allocated social housing for herself and her children. The Local Authority, however, have not been in a position to house her at present as she already has accommodation. They have advised her that if an order for eviction is granted they would then be in a position to offer her alternative accommodation;
19. Miss Alum advised the Tribunal that she was, however, wishing to be allocated social housing rather than to be residing in privately let accommodation. She was of the view that social housing would provide more stability in the longer term for herself and her children. She commented that if she was in private let accommodation she was concerned that the Landlord, for a variety of reasons, could seek recovery of the property. She advised that she had not made any enquiries about alternative privately let accommodation for that very reason. She specifically wishes to be allocated housing within the social sector;
20. As stated, she has been engaging with the Local Authority for some time. She had made them aware that this Case Management Discussion was calling on 18<sup>th</sup> February 2022. She has already arranged an appointment with the Local Authority for 24<sup>th</sup> February 2022 by which time the decision of the Tribunal was expected to be known and she would then be provided with assistance to complete her homeless application with a view to being allocated alternative accommodation. She was confident from her discussions with the Local Authority that she would be offered accommodation within the next 30 days if an order for eviction was granted;

### **FINDINGS IN FACT**

21. The Tribunal found the following facts to be established:-
  - a) The parties entered into a Private Residential Tenancy Agreement in terms of which the Respondent rented the Property from the Applicant. The start date of the tenancy was 1<sup>st</sup> August 2019;
  - b) The property is owned in the joint names of the Applicant and his wife, Lea Sneddon. Mrs Lea Sneddon corresponded with the Tribunal confirming that she had consented to the lease proceeding in the sole name of Mr Steven Sneddon and also consenting to the application to the Tribunal proceeding;
  - c) By application dated 16<sup>th</sup> October 2021, the Applicant sought an Order for eviction of the Respondent from the Property in terms of Ground 4 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016,
  - d) Prior to making the Application to the Tribunal, the Applicant had timeously served a Notice to Leave on the Respondent;
  - e) The Applicant had intimated a Notice in terms of Section 11 of the Homeless Etc. (Scotland) Act 2003 upon the relevant Local Authority;
  - f) The Applicant intends to reside in the Property for a period of at least 3 months;

g) It is reasonable that an order for eviction be granted

## **REASONS FOR DECISION**

22. Having regard to the submissions of the Parties, while on one view it might be considered that the needs of the Respondent were greater than the needs of the Applicant, having regard, in particular, to the fact that the Respondent has 3 young children, when the Tribunal also had regard to the Respondent's clearly stated desire to remove herself from the Property, to secure an allocation of social housing for herself and her family, taken together with her need for an eviction order to enable that process to be completed, and also having regard to the undisputed personal circumstances of the Applicant, that being that he was in process of a divorce, had removed himself from the matrimonial home, was currently in rented accommodation which accommodation was too small for the long terms needs of him and his children, and his undisputed assertion that he intended to reside in the Property, the Tribunal considered that, in all the circumstances, it was reasonable that an order for eviction be granted;

## **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 forth and from the Property at 9 Newton Village, Dalkeith, EH22 1SN and to make the same void and redd that the Applicant or others in his name may enter thereon and peaceably possess and enjoy the same.

Order not to be executed prior to 12 noon on 28 March 2022

### **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

18 February 2022

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Legal Member/Chair

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Date