



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“The Act”)**

**Chamber Ref: FTS/HPC/EV/22/1518**

**Re: Property at 18 Granby Avenue, Livingston, West Lothian, EH54 6LB (“the Property”)**

**Parties:**

**Mr Michael Barclay, 64 Granby Avenue, Howden, Livingston, West Lothian, EH54 6LD (“the Applicant”)**

**Miss Marcia Nagle, 18 Granby Avenue, Livingston, West Lothian, EH54 6LB (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order.**

**Background**

The Applicant seeks an Eviction Order on the basis of Ground 1 of Schedule 3 of the Act in that it is said that the Applicant wishes to sell the Property. The Application is accompanied by a copy of a Private Residential Tenancy agreement between the parties, evidence setting out efforts made by the Applicant to progress the sale of the Property, a copy of the Notice to Leave served on the Respondent and a document bearing to have been signed by the Applicant which acknowledges receipt of the Notice to Leave.

## **The Case Management Discussion**

The Application called for a Case Management Discussion by conference call at 10 am on 10 October 2022. The Applicant was represented by Mr Bryan of Sneddon Morrison LLP. The Respondent was personally present. Neither party wished to raise any preliminary matters and the Respondent had received all the documentation and was aware of the purpose of today's CMD.

The Respondent confirmed that she actively wished the Tribunal to grant an Eviction Order. The Respondent explained that she was good friends with the Applicant and understood that he was now of an age where he wanted to retire and sell the Property. The Respondent also said she had only remained in the Property because she had been expressly told that it would be advantageous to her in obtaining alternate accommodation if she was evicted.

The Respondent lived in the Property with three children aged 20, 17 and 8. The two younger children had pronounced additional support needs. The Property was not itself strictly suitable for the Respondent as it was a three-bedroom property which meant the Respondent herself slept in the living room. The Respondent was hopeful that she would be given priority status by the local authority in finding another property and appeared to be in regular contact with the appropriate local government departments.

Having heard from the Respondent directly and having considered the Application, the Tribunal made the following findings in fact.

### **Findings in Fact**

- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent;*
- II. *The tenancy agreement originally commenced in 2015 and was converted into a Private Residential Tenancy on 1 September 2020;*
- III. *The Applicant wishes to sell the Property as he wishes to retire from the private sector rentals industry;*
- IV. *On 26 July 2021, the Applicant competently served a Notice to Leave on the Respondent on the basis of Ground 1 of Schedule 3 of the Act which provided the correct notice period to the Respondent of the earliest date by which any Application to this Tribunal might be made ;*
- V. *The Applicant has complied with s 11 of the Homelessness (etc) (Scotland) Act 2003;*

- VI. *The Respondent also wishes to leave the Property and considers it advantageous for the Tribunal to make an Eviction Order;*
- VII. *Ground 1 of Schedule 3 of the Act is established and it is reasonable that an Eviction Order is made.*

### **Reasons for Decision**

Having made the above findings in fact, the Tribunal granted the Application and made an Eviction Order.

### **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.**

**Andrew McLaughlin**

**10/10/2022**

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**Legal Member/Chair**

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**Date**