



**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/20/1205**

**Re: Property at 6 Scotsmill Gardens, Blackburn, AB21 0GA (“the Property”)**

**Parties:**

**Mr Neil George Dewhurst, Mrs Paula Dewhurst, 5-9 Bon Accord Crescent, Aberdeen, AB11 6DN (“the Applicants”)**

**Miss Alexis Chloe Noelle Smith, Mr Willhaid Liyai Ayiego, 6 Scotsmill Gardens, Blackburn, AB21 0GA (“the Respondents”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.**

**Background**

1. An application was received by the Housing and Property Chamber dated 26<sup>th</sup> May 2020. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of schedule 3 of the Private Housing (Tenancies) Act 2016.
2. A Notice to Leave was dated 27<sup>th</sup> February 2020 with no action to be raised prior to 25<sup>th</sup> May 2020.

### The Case Management Discussion

3. A CMD was held on 20<sup>th</sup> August 2020 at 11.30am by teleconferencing due to Covid 19 restrictions. The Applicants were represented by Ms Carly Stewart, solicitor, Aberdeen & Considine solicitors. The Applicants did not attend. The Respondents were present and represented themselves.
4. The purpose of the Tribunal was to determine whether the Applicants had a true intention to sell the Property within 3 months. The application did not concern any fault on behalf of the Respondents. Ms Stewart confirmed that this did not form part of the application. Ms Stewart further informed the Tribunal that the Applicants have only one property. It had been their primary residence until the Applicants required to move for employment reasons. The Applicants are now settled permanently in the USA and require the Property to be sold to allow them to use the funds to continue to fund their life in the USA. Through the First Named Applicant's employment, a company called Conoco Phillips are willing to purchase the Property from the Applicants directly to allow their resettlement in the USA. Conoco Phillips will then market the Property independently thereafter. Conoco Phillips require two surveyors to undertake valuations with no sitting tenants. Once the two valuations have been done the Property will then be sold to Conoco Phillips. The Applicants had originally raised an application with a Notice to Leave on 23<sup>rd</sup> October 2019 with the lease ending on 23<sup>rd</sup> November 2019. However, the Notice to Leave was one day out on the date for the appropriate notice period and so required to be redone. Surveyors had initially been instructed to undertake the valuations in late November 2019 when it had been anticipated that the Respondents would leave the Property.
5. The First Named Respondent stated that she did not object to the application and was willing to leave the Property. She has struggled to find suitable accommodation to allow her family to move in and for their dog to move in too. She has recently had a baby. The Applicants letting agents had refused to provide a reference as the Respondents had failed to move out of the Property when the Notice to Leave was issued. The Respondents were trying to find new accommodation but it has become increasingly hard to do so as the market is very competitive and they do not have a reference. The First Named Respondent objected to not having a reference as she was willing to move had she been able to source alternative accommodation. The Tribunal explained that this was not within the remit of this hearing. The Second Named Respondent agreed with what the First Named Respondent had told the Tribunal.

### Findings and reason for decision

6. A Private Rented Tenancy Agreement commenced 31<sup>st</sup> March 2019.
7. The Applicant has taken steps to sell the property and is seeking to do so within a 3 month period.

8. The application to evict the Respondents is solely in relation to the Applicants wishing to sell their property.

### Decision

9. The Tribunal found that ground 1 has been established and the granted an 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.**

Gabrielle Miller

20<sup>th</sup> August 2020

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**Legal Member/Chair**

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**Date**