



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) Act 2016**

**Chamber Ref: FTS/HPC/EV/21/0224**

**Re: Property at 2 Ranken Drive, Irvine, KA12 0PW (“the Property”)**

**Parties:**

**Mr Aidan Fifer, 13 Tollerton Drive, Irvine, KA12 0QA (“the Applicant”)**

**Miss Danielle Hay, 2 Ranken Drive, Irvine, KA12 0PW (“the Respondent”)**

**Tribunal Members:**

**David Preston (Legal Member) and Elizabeth Williams (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted in favour of the applicant.**

**Background:**

1. By application dated 29 January 2021 the applicant applied for an order for eviction and possession of the property on the basis of Ground 4 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.
2. The relevant papers before the tribunal comprised:
  - a. Application Form dated 29 January 2021;
  - b. Private Residential Tenancy Agreement dated 5 September 2018;
  - c. Notice to Leave dated 19 October 2020;
  - d. Notice under section 11 of the Homelessness etc (Scotland) Act 2003;
  - e. Title Information relative to the property – AYR85299;
3. By Notice of Acceptance dated 16 March 2021, a Convener of HPC having delegated power for the purpose, referred the application under rule 9 of the Rules to the tribunal.

## **CMD**

4. On 27 April 2021 a CMD was convened by telephone at 14.00am in terms of the Notice of Intimation. The applicant was in attendance. There was no appearance by or on behalf of the respondent.
5. The Notice of the CMD had been served on the respondent together with a full set of papers relating to the application conform to Certificate of Service dated 24 March 2021. The tribunal was satisfied that due notice had been given to the respondent to which she had failed to respond, and she had therefore voluntarily waived her right to attend or be represented and the tribunal was content to proceed in her absence.
6. The applicant advised that the respondent continued to occupy the property. He and given her three months' notice which had expired on 19 January 2021. He said that he required possession of the property due to a change in his circumstances. He advised that he and his girlfriend had intended to purchase and new build property for which they had been required to find 5% deposit. He had been advised that the situation had changed, and the minimum deposit required had gone up to 15% which they could not afford. They accordingly decided that the required to move back into the property belonging to the applicant. He advised that he and his girlfriend were currently living with their respective parents which was not satisfactory. He had an exchange of messages with the respondent asking whether she had been able to obtain alternative accommodation but had been advised that the Council had been unable to find an alternative property.
7. The tribunal drew the applicant's attention to the Direction dated 16 March 2021 which called upon him to submit an Affidavit confirming his intention to live in the property. He explained that he works offshore, and that the Wi-Fi is very poor. He had been unable to open the Direction and had not seen it until directed to it today.

### **Reasons for Decision:**

8. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that the tribunal may do anything at a Case Management Discussion which it may do at a hearing, including making a decision. The tribunal decided, on the basis of the information presented to it, to determine the application at the Case Management Discussion.
9. The Tribunal was satisfied with the information provided by the applicant that he intended to live in the property. He had served three months' Notice to Leave on the respondent.
10. The tribunal considered the terms of the Coronavirus (Scotland) Act 2020 to which it was required to have regard. The tribunal must be satisfied that the granting of an eviction order is reasonable. The tribunal was satisfied that the end date specified in the Notice to Leave had been 19 January 2021 and the application to the tribunal had been made on 29 January 2021. A further three months had elapsed since the date of the application. The applicant had said that the

respondent had been unable to obtain housing from the local authority in the interim. The tribunal understands that it is not unusual for local authorities not to re-house tenants unless an order for eviction is in place.

11. The tribunal is satisfied that in all the circumstances it is reasonable to grant the order for eviction.

### **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.**

David Preston

27 April 2021

**Legal Member/Chair**

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**Date**