



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing Tenancies (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/21/0490**

**Re: Property at 6 Faulkner Grove, Carfin, Motherwell, ML1 5LD (“the Property”)**

**Parties:**

**Mr Lee Rushton, Mrs Yvonne Rushton, 31 Gilchrist Way, Wishaw, ML2 8JX (“the Applicant”)**

**Mrs Maureen O’Connor, 6 Faulkner Grove, Carfin, Motherwell, ML1 5LD (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Mr D MacIver (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted. Execution of the eviction order cannot take place before 12 noon on 29<sup>th</sup> November 2021**

**Background**

1. This is an application dated 3<sup>rd</sup> March 2021, made in terms of Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended. The Applicants are the landlords of the Property. The Respondent is the tenant. By lease dated 15<sup>th</sup> January 2019, the Landlords let the Property to the Respondent. Despite the date of signing of the lease, the date of commencement of the tenancy was 18<sup>th</sup> September 2018. The tenancy purported to be a short assured tenancy agreement. Such tenancies, however, could not be created after 1<sup>st</sup> December 2017. In terms of the Private Housing (Tenancies) (Scotland) Act 2016 (the “2016 Act”) the tenancy agreement fell to be considered and dealt with as a private residential tenancy.
2. The Applicant served a notice to leave upon the Respondent, the ground of eviction being that a member of the Landlords’ family intended to live in the Property (ground number 5 of schedule 3 of the 2016 Act). The notice was served on 22<sup>nd</sup> February 2021 and indicated that no application would be

submitted to the tribunal before 25<sup>th</sup> May 2021. Despite the terms of the notice, the Applicants presented an application to the Tribunal on 3<sup>rd</sup> March 2021. The Tribunal has power to consider applications during the notice period in terms of Section 52 (4) of the 2016 Act if the Tribunal considers it reasonable to do so.

3. Case Management Discussions took place on 23<sup>rd</sup> April and 28<sup>th</sup> May 2021.
4. A hearing was set down for 27<sup>th</sup> July 2021.
5. Both parties lodged written representations, productions and witness lists prior to the hearing.

### **The Hearing**

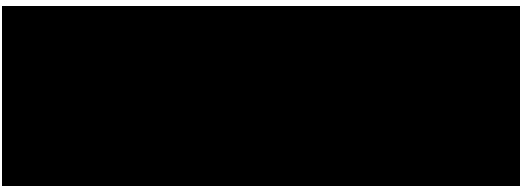
6. A hearing commenced by telephone conference on 27<sup>th</sup> July 2021. The Applicants were represented by Ms Kirsty Donnelly, Solicitor. The Respondent was represented by Ms Lisa McGuigan, Solicitor. The Respondent was in attendance.
7. Parties' agents informed the Tribunal that they had reached an agreed position whereby the eviction order would be granted of consent on the understanding that it would not be enforced for a period of four months to allow the Respondent to obtain alternative housing.

### **Decision**

8. The eviction order is granted. Execution of the eviction order cannot take place before 12 noon on 29<sup>th</sup> November 2021

### **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.**



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**Legal Member/Chair**

27<sup>th</sup> July 2021  
**Date**

