



**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/21/0491**

**Re: Property at 7 Weddershill Court, Hopeman, Moray, IV30 5RS (“the Property”)**

**Parties:**

**Mr David Mark Known as Mark Owen, Mrs Diane Elizabeth Owen, 28 Valour Court, Golden Grove, SA5125, Australia (“the Applicants”)**

**Mr Paul McGregor, Mrs Sharon McGregor, 7 Weddershill Court, Hopeman, Moray, IV30 5RS (“the Respondents”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Mrs E Williams (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondents.**

**Background**

1. This is an application received in the period between 4<sup>th</sup> and 18<sup>th</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 Rules”) seeking an eviction order under ground 5 of the Private Rented Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The Applicants’ representative included with the application a copy of the tenancy agreement between the parties, which tenancy commenced on 21<sup>st</sup> November 2019, copy Notice to Leave dated and served on 2<sup>nd</sup> November 2020, copy affidavit of Marilyn Heatherwick Thomson or Angus and section 11 notice served on 1<sup>st</sup> March 2021.
2. Notification of the application and a Case Management Discussion set down for 4<sup>th</sup> May 2021 was served upon the Respondents by Sheriff Officers on 7<sup>th</sup> April 2021.

## **Case Management Discussion**

3. A Case Management Discussion (“CMD”) took place by telephone conference on 4<sup>th</sup> May 2021. The Applicants were not in attendance and were represented by Mr Iain Maltman, Solicitor. The Respondent, Mr McGregor, was in attendance. Mrs McGregor was not in attendance. Mr McGregor confirmed that he was representing both Respondents.
4. Mr Maltman moved for the eviction order to be granted. The mother of the Applicant, Diane Elizabeth Owen, wishes to move into the Property with her husband, in order that renovations can be carried out to their home, as set out in the affidavit. The Property would become their principal home for a period of at least three months, as their own property will be uninhabitable.
5. Mr McGregor said that the Respondents are not opposing the order. They have been offered a property by the local authority albeit they have not yet viewed the property as repairs are being carried out. It is in a suitable area and he expects that they will accept the property.

## **Findings in Fact and Law**

6.
  - (i) The parties entered into a private residential tenancy agreement in respect of the Property commencing on 21<sup>st</sup> November 2019.
  - (ii) A member of the family of the Applicant, Diane Elizabeth Owen, intends to live in the Property as their principal home for at least three months.
  - (iii) The Respondents are not opposed to the granting of an eviction order.
  - (iv) It is reasonable to grant an eviction order.

## **Reasons for Decision**

7. Ground 5 of Schedule 3 of the Act provides that it is an eviction ground if a member of the landlord’s family intends to live in the let property. The Tribunal may find the ground applies if a member of the landlord’s family intends to occupy the property as their only or principal home for a period of at least three months and it is reasonable to issue an eviction order on account of that fact.
8. The Tribunal is satisfied that Ground 5 has been established.
9. The Tribunal is satisfied that the necessary Notice to Leave has been correctly issued to the Respondents in terms of the Act.

10. In considering whether it is reasonable to grant the eviction order, the Tribunal took into account the fact that the Respondents are not opposing the order, and are in the process of obtaining alternative accommodation from the local authority. In all the circumstances, the Tribunal found that it was reasonable to grant the eviction order.

### **Decision**

11. An eviction order in respect of the Property is granted against the Respondents.

### **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.**

**H.F.**

**Legal Member/Chair**

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**4<sup>th</sup> May 2021  
Date**