

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/21/0560**

**Re: Property at 20D Hopetoun Street, Bathgate, EH48 4EU (“the Property”)**

**Parties:**

**Mr Darren McGhee, 7 Birkwood Court, Glenboig, Coatbridge, ML5 2TD (“the Applicant”)**

**Mr Robert Hay, 20D Hopetoun Street, Bathgate, EH48 4EU (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member) and Mike Scott (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.**

**Background**

By application, received by the Tribunal on 24 February 2021, the Applicant sought an Eviction Order against the Respondent in respect of the Property under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 1 of Schedule 3 to the 2016 Act, namely that the Landlord intends to sell the let Property.

The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties commencing on 17 May 2019, a Notice to Leave dated 20 August 2020, advising the Respondent that an application to the Tribunal for an Eviction Order would not be made before 23 February 2021, proof of delivery of the Notice to Leave on 21 August 2020, and a Sole Selling Agency Agreement dated 11 August 2020 between the Applicant and Lothian Homes Sales and Lettings, Bathgate.

On 4 May 2021, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 25 May 2021. The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held by way of a telephone conference call on the afternoon of 3 June 2021. The Applicant was represented by Samantha Fraser of Lothian Homes. The Respondent did not participate and was not represented. The Applicant's representative asked the Tribunal to grant the application without a Hearing. She stated that the Applicant owned a number of rented properties that he had decided to sell. The Respondent had not left the Property when the period set out in the Notice to Leave expired, so the application was necessary. Ms Fraser also told the Tribunal that the Respondent lived alone in the Property and that it was the Applicant's intention to put the Property on the market within 3 months of the tenant ceasing to occupy it.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

Ground 1 of Schedule 3 to the 2016 Act, as amended by the Coronavirus (Scotland) Act 2020, states that it is an Eviction Ground that the landlord intends to sell the let property, and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell the property, intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts. Ground 1 also says that evidence tending to show that the landlord has the intention to sell the property includes, for example, a letter of engagement from a solicitor or estate agent concerning the sale of the let property, or a recently prepared Home Report.

The amendments to Ground 1 introduced by the Coronavirus (Scotland) Act 2020 require the Tribunal to be satisfied that the Ground relied on has been established and also that it is reasonable to issue an Eviction Order. Accordingly, the Tribunal considered all the evidence, written and oral, before it.

The Tribunal was satisfied that the Notice to Leave had been validly given and that it had stated the correct period of notice, namely six months. The Applicant had entered

into a sole agency agreement with Lothian Homes regarding the sale of the Property, this being in effect a letter of engagement from an estate agent as set out in Ground 1 of Schedule 3 to the 2016 Act. The Tribunal noted that the Respondent had not provided any written representations and had chosen not to participate in or be represented at the Case Management Discussion, so had offered no evidence to counter the Applicant's contention that it would be reasonable to issue an Eviction Order. It also appeared to the Tribunal that the Respondent did not have any dependants living with him in the Property. Accordingly, having weighed up all the facts and circumstances of which the Tribunal was aware, the Tribunal decided that the requirements of Ground 1 had been met and that it would be reasonable to issue an Eviction Order against the Respondent.


## **Decision**

The Tribunal determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.

The Tribunal's Decision was unanimous.

## **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.**

 George Clark

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**Legal Member/Chair**

**3 June 2021**  
**Date**