



**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/21/1627**

Re: Property at 49A Fairholm Street, Larkhall, ML9 1DQ (“the Property”)

Parties:

Mr David Lees, 2 Fairholm Street, Larkhall, ML9 1DJ (“the Applicant”)

Ms Leoni Beattie, 49A Fairholm Street, Larkhall, ML9 1DQ (“the Respondent”)

Tribunal Members:

Lesley-Anne Mulholland (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an Order for Eviction.

1. This is an application under Section 51(1) of the Private Housing (Scotland) Act 2016 for an Order for Eviction on the basis that the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Tenant ceasing to occupy it.
2. The Applicant is the Landlord and joint owner of the property. Margaret McCluskie or Lees is the other joint owner and consents to the application being brought by David Lees in his sole name. The Respondent is the Tenant.
3. A two-member Case Management Discussion (CMD) took place at 10.00 am on 11 October 2021 by teleconference. The Applicant, Mr Lees and his

Representative, Mr Clayson joined the hearing. The Respondent failed to appear and has failed to engage with the application in any way. We waited until 1410hrs and decided to proceed in the Respondent's absence after satisfying ourselves that the relevant papers had been properly served on the Respondent and that she was notified of today's CMD.

4. Mr Clayson informed us that the applicant is over 70 years of age and wishes to sell the property and retire as he no longer wishes to be a landlord. The correct period of notice was given to the Respondent by the Landlord who handed the relevant documents to her personally. The Landlord receives payment of rent by way of Housing Benefit. There was an issue with this sometime ago however this was resolved following upon a hearing at a Social Security Tribunal. There has been no concern about the Respondent in relation to her occupation of the property and payment of rent. This is simply a case of the Applicant wishing to retire. A Section 11 Notice has been provided to the Local Authority which would allow the Respondent to contact them for alternative housing, should the Order for Eviction be granted.
5. We have had regard to the affidavit dated 19 August 2021 by Mr Lees in which he swears that it is his intention to sell the property and that he has spoken to an estate agent regarding the sale. He previously tried to sell the property and when this was not possible because of a lack of interest, he decided instead to rent it.
6. We have no reason to doubt the information sworn in the affidavit as Mr Lees attended the hearing to speak to it if required. The Respondent has not entered the process in any way and accordingly has not challenged the information contained in the affidavit or sought to challenge the granting of an Eviction Order.
7. Having considered all of the evidence before us, orally and in writing, we have decided to grant an Order for Eviction. Although the Respondent is in receipt of Housing Benefit, we are conscious that the Applicant is nevertheless entitled to sell his property. The Applicant has served a Section 11 Notice on the Local Authority and the Respondent can contact them to apply for suitable alternative housing. We have no information before us to indicate

that there are any particular circumstances to demonstrate that the granting of the Order would not be reasonable in all the circumstances.

5. Accordingly, we grant an Eviction Order.

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.

11 October 2021

Legal Member/Chair

Date