



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

**Chamber Ref: FTS/HPC/EV/22/0193**

**Re: Property at 61 Gilmour Wynd, Stevenson, North Ayrshire, KA20 4DA (“the Property”)**

**Parties:**

**Mr Sean Lennon, Mr Dominic Lennon, 105 Ballylough Road, Castlewellan, County Down, BT31 9JG (“the Applicants”)**

**Miss Carla Burns, Mr John McDade, 61 Gilmour Wynd, Stevenson, North Ayrshire, KA20 4DA (“the Respondents”)**

**Tribunal Members:**

**Andrew Upton (Legal Member) and Ann Moore (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted under Ground 1 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016, and that the Private Residential Tenancy terminated on 5 May 2022.**

**STATEMENT OF REASONS**

1. This Application called for its Case Management Discussion by teleconference on 5 May 2022. The Applicants were represented by Mr Hall of Homesure Portfolio Management. The Respondents were neither present nor represented on the call.
2. In this Application, the Applicants seek an eviction order. They say that they are the landlords, and the Respondents the tenants, of the Property under a Private Residential Tenancy. They say that they intend to sell the Property. They have produced a Notice to Leave which they say was given by them to

the Respondents and which gave six months' notice to the Respondents that the Respondents required to leave the Property due to their intention to sell it.

3. In terms of Rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017, the Tribunal may do anything at a Case Management Discussion that it may do at a Hearing, including make a decision. In terms of Rule 2, the Tribunal must have regard to the overriding objective to deal with proceedings justly when making a decision, including the need to avoid unnecessary delay.
4. The Respondents have been afforded an opportunity to attend the Case Management Discussion and dispute the Applicants' case as set out in the Application. They have chosen not to do so. The Tribunal therefore considers that the statements contained in the Application are not in dispute.
5. In terms of the Private Housing (Tenancies) (Scotland) Act 2016:-

*"51 First-tier Tribunal's power to issue an eviction order*

- (1) The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.
- (2) The provisions of schedule 3 stating the circumstances in which the Tribunal may find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.
- (3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.
- (4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

*Schedule 3, Ground 1 Landlord intends to sell*

- (1) It is an eviction ground that the landlord intends to sell the let property.
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—
  - (a) is entitled to sell the let property,
  - (b) 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
  - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

- (3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—
- (a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,
  - (b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.”
6. Mr Hall advised the Tribunal that the Applicants still intend to sell the Property. By way of background, he advised that the Applicants reside in Ireland and wish to exit the private letting market. Homesure manage three properties in Scotland for the Applicants, all of which are subject to current or imminent Tribunal applications seeking eviction to allow the Applicants to sell their portfolio. Mr Hall was unable to advise the Tribunal why the Applicants wished to do that. Mr Hall had no information regarding the Respondents, but was able to confirm that the Property had not been adapted for their needs.
7. In all of the circumstances, the Tribunal was satisfied that the Applicants intend to sell the Property, and that it is reasonable to grant the eviction order. The Private Residential Tenancy shall be treated as having terminated on 5 May 2022.

### **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.**

**Andrew Upton**

**05/05/2022**

**Legal Member/Chair**

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**Date**