



**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/22/0504**

**Re: Property at 64 Curzon Street, Ruchill, Glasgow, G20 9HA (“the Property”)**

**Parties:**

**Lorraine Walker, 52 Currie Street, Glasgow, G20 9ET (“the Applicant”)**

**Leanne McQuade, 64 Curzon Street, Ruchill, Glasgow, G20 9HA (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant**

**Background**

1. An application was received by the Housing and Property Chamber dated 22<sup>nd</sup> February 2022. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 1 of the Private Housing (Tenancies) Act 2016.
2. On 16<sup>th</sup> May 2022 the Applicant’s solicitor lodged the Notice to Leave which was the one that was served upon the Respondent dated 6<sup>th</sup> August 2022. This was served by Sheriff Officers on 9<sup>th</sup> August 2022. The Notice stated that the application would not be submitted to the Tribunal for an order for eviction before 10<sup>th</sup> February 2022. The Notice to Leave that had been submitted within the application which was dated 7<sup>th</sup> April 2021 had been lodged in error.

### The Case Management Discussion

3. A CMD was held on 16<sup>th</sup> May 2022 at 2pm. The Applicant was represented by Mr Scott Runciman, Senior Solicitor, Gilson Gray LLP. The Applicant was not present. The Respondent was present and represented herself.
4. Mr Runciman submitted that this was a PRT and that the application was raised under ground 1, namely that the Applicant wished to sell the Property. The Applicant has engaged an estate agent but has not been able to proceed further due to the Respondent still occupying the Property. Mr Runciman told the Tribunal that he believed this to be the only property owned by the Applicant aside from her own residence. She wished to sell the Property. She had been under the impression from her previous solicitor that the Property had been conveyed to her as a result of the Certificate of Confirmation in 1999. It has only recently been highlighted to the Applicant by Mr Runciman's firm that this had not been done. It is now in process. The Applicant's previous solicitor has since been struck off. The Applicant has duties under the will to ensure that funds from selling the Property are realised but is also seeking to sell the Property for her own financial relief.
5. The Respondent confirmed that she is not opposing the Order. It is a two bedroomed property. She lives in it with her sons who are 14 and 17. Her sons have to share a room. She is overcrowded and it is adding stress to her life. She has ongoing family caring commitments and is a frontline worker. The Respondent confirmed that the local authority will not apply any priority to her application for alternative suitable housing until an eviction order has been granted. She is unable to secure the larger accommodation she needs at present.

### Findings and reason for decision

6. A Private Rented Tenancy Agreement commenced 1<sup>st</sup> April 2020. It was erroneously headed as a Short Assured Tenancy.
7. The Landlord has taken clear steps to look into marketing the Property but is unable to do this while it is occupied by the Respondent.
8. The Respondent is not opposing the Order.
9. There are no issues of reasonableness which would prevent an order being granted.

### Decision

10. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant.

## 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.

# G. Miller

16<sup>th</sup> May 2022

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Legal Member/Chair

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Date