

**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 of the Private Housing (Tenancies) (Scotland) Act 2016.**

**Chamber Ref: FTS/HPC/EV/22/3065**

**Re: Property at 16 Templand Road, Dalry, KA24 5EU (“the Property”)**

**Parties:**

**Ms Lynn Strahorn (Benevento), 36 Netherlee Crescent, Dalry, KA24 5HF (“the Applicant”)**

**Mr Louis McTaggart, Ms Coral-Lee O'Neill, 16 Templand Road, Dalry, KA24 5EU (“the Respondent”)**

**Tribunal Members:**

**Karen Kirk (Legal Member) and Linda Reid (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent.**

**The Tribunal further determined that extract be superseded for a period of 8 weeks and as such the eviction order cannot be executed until on or after noon on 23<sup>rd</sup> March 2023.**

**Introduction**

This Case Management Discussion concerned an Application under application for an Eviction order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 in respect to a Private Rented Tenancy. The Case Management Discussion took place by teleconference. The Legal Member discussed the process and procedure with both parties relevant to the Case Management Discussion. Parties were aware a final decision could be made.

**1. Attendance and Representation.**

The Applicant was represented by Deborah Styles, Move2 Lettings & Sales Ltd, 25 Hamilton Street, Saltcoats, KA21 5DT

The Respondent was present.

## **2. Preliminary Matters.**

There were no preliminary matters raised.

## **3. Case Management Discussion.**

### *For the Applicant*

The Applicant's representative said the Applicant is seeking an eviction order to have the property for her young son to move into. She said the Applicant's adult son still resides at home and the Applicant had been intending to have him move into the property earlier but decided to wait and continue to rent the property. The Applicant's representative said there had been some family conflict and that her son needs his own space and is not in a position to afford alternative accommodation. The Applicant had lodged supporting evidence regarding her family situation including information regarding her son's occupation/education and her family situation. The Applicant also lodged representations regarding the fact she had been required to rent the property after she required more space as her family grew but the property was in negative equity. The Applicant explained that now the property is needed after these years of renting so that her adult son can now reside there.

The Applicant's representative sought an Eviction order on the basis of Ground 5, schedule 3 of 2016 Act.

### *For the Respondent*

The Respondent told the Tribunal that he lives in the property with his partner and his son who is 16 months old. He has been unemployed for over a year now. His partner is unemployed and still on maternity leave. They are in the process of waiting for alternative housing with the local authority. The Respondent explained that he and his partner made the application after they received notice of the Tribunal and that he is looking to have an eviction order granted. The local authority was in touch 3 days ago to find out the outcome of the Tribunal as they are unable to provide housing without an order being granted. The Respondent explained this is what he had been told and he was not opposed to the order for eviction sought.

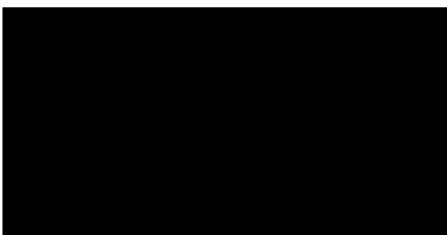
## **4. Reasons for Decision and Findings in Fact**

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The evidence was agreed and both parties were present or represented at the Case Management Discussion.**

2. The Applicant sought an Order for Eviction on the basis that the property was required for a family member to reside in in terms of Ground 5, schedule 3 of 2016 Act.
3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.
4. There was a PRT in place between parties dated 31<sup>st</sup> October 2019.
5. A Notice to Leave was sent to the Respondent on 22<sup>nd</sup> February 2022.
6. The Tribunal was satisfied in terms of Schedule 3, Part 3 Ground 5 of the 2016 Act that the Applicant sought an Eviction Order to allow her son to reside in the property.
7. The Tribunal was also satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.
8. The Tribunal noted the Local Authority under the 2016 had been notified.
9. On the evidence available to the Tribunal the Applicant provided significant evidence that the property was required for her son and the Respondent did not dispute same. He himself sought an order as he and his family were seeking alternative accommodation.
10. The Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.
11. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.
12. The Tribunal however considered that the Respondent had a young family and it was appropriate having regard to the overriding objective that he be given additional time to vacate the property and secure alternative accommodation. On this basis the Tribunal in their discretion determined that extract be superseded for a period of 8 weeks and as such the eviction order cannot be executed until on or after noon on 23<sup>rd</sup> March 2023.

### 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.



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Legal Member/Chair

26<sup>th</sup> January 2023

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Date