



**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/22/3087**

**Re: Property at 21 Halkett Crescent, Alexandria, G83 0QZ (“the Property”)**

**Parties:**

**Mr Derek Wells, 21 Almond Road, Glasgow, G61 1RQ (“the Applicant”)**

**Miss Meghan Anderson, 21 Halkett Crescent, Alexandria, G83 0QZ (“the Respondent”)**

**Tribunal Members:**

**Fiona Watson (Legal Member) and Elizabeth Williams (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.**

- Background
  1. An application dated 26 August 2022 was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of the Applicant’s intention to sell the Property, being Ground 1 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).
- Case Management Discussion
  2. A Case Management Discussion (“CMD”) took place on 27 January 2023 by conference call. The Applicant was represented by Emma McCulloch of EVE Property (Scotland) Limited. There was no appearance by or on behalf of the

Respondent. The Tribunal was satisfied that the application had been intimated on the Respondent by way of Sheriff Officer on 1 December 2022 and accordingly the Respondent had sufficient intimation of the date and time of the CMD. Accordingly, the Tribunal was satisfied that the CNMD could proceed in the Respondent's absence.

3. The Applicant's representative moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement ("the Agreement"), which commenced 1 December 2021. The Applicant intended to sell the Property and required vacant possession in order to do so. A Notice to Leave had been served on the Respondent on the basis of Ground 1 of Schedule 3 to the 2016 Act, on 22 April 2022. The Applicant intends to sell the Property due to it not remaining financially viable for him to continue to let it out. The condition of the Property had deteriorated since the Respondent had moved in, and it would cost a significant sum to bring it back up to an acceptable standard to sell. The Applicant's mortgage payment would increase by more than 50% when the mortgage was due for renewal.
4. It was submitted that the Respondent had been trying to obtain alternative accommodation from the local authority or a housing association, and Ms McCulloch advised that she had a conversation with a housing official who had advised her that they could not rehouse the Respondent until such time as an order for eviction was granted by the Tribunal. The Respondent has two children, their ages were unknown, but they were believed to be of primary school age. Due to one of the children having additional needs, the respondent requires a bigger property with three bedrooms. The Property was not suitable for her children's needs and the children require separate bedrooms. It was submitted that there were rent arrears due by the Respondent of £657.28 albeit there had been some discussion with the Applicant as to whether these would be written-off to assist the Respondent.
5. The following documents were lodged alongside the application:
  - (i) Copy Private Residential Tenancy Agreement
  - (ii) Copy Notice to Leave
  - (iii) Proof of service of the Notice to Leave by email
  - (iv) Section 11 notification to the local authority under the Homelessness etc. (Scotland) Act 2003
  - (v) Letter from EVE Property confirming instruction re appraisal of the Property for marketing for sale
- Findings in Fact
6. The Tribunal made the following findings in fact:
  - (i) The parties entered into a Private Residential Tenancy Agreement which commenced on 1 December 2021;
  - (ii) The Applicant is the heritable proprietor of the Property;
  - (iii) The Applicant is entitled to sell the Property;

- (iv) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 1 of Schedule 3 to the 2016 Act;
- (v) The Applicant has provided a letter of engagement from an estate agent regarding the marketing of the Property;
- (vi) It is reasonable to grant the order.

- Reasons for Decision

7. The Tribunal was satisfied that the terms of Ground 1 of Schedule 3 to the 2016 Act had been met, namely that the Applicant intends to sell the property for market value or at least put it up for sale, and intends to do so within 3 months of the Respondent ceasing to occupy it. The Tribunal was satisfied that a Notice to Leave had been served on the Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act. The Tribunal was also satisfied that it would be reasonable to grant the order, taking into account the submissions made by the Applicant's representative (and which are set out in paragraphs 3 and 4 above) regarding the Applicant's financial situation and the Respondent requiring alternative accommodation more suitable for her children's needs, and that the granting of the order may assist her in securing that accommodation.

- Decision

8. The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

## **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.**

