

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18(1) of the Housing (Scotland) Act 1988**

**Chamber Ref: FTS/HPC/EV/22/3679**

**Re: Property at 32 Mauchline Road, Ochiltree, Ayrshire, KA18 2QA (“the Property”)**

**Parties:**

**Ms Elizabeth Gaffney, Dalmally Railway Station, Dalmally, Argyll and Bute, PA33 1AA (“the Applicant”)**

**Mr Scott Frew, Mrs Caroline Frew, 32 Mauchline Road, Ochiltree, Ayrshire, KA18 2QA (“the Respondent”)**

**Tribunal Members:**

**Mark Thorley (Legal Member) and Angus Lamont (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order of eviction be granted deferred for a period of 2 months until 7 April 2023**

**BACKGROUND**

The applicant applied to the tribunal through her agents Messrs. Bannatyne Kirkwood France and Co on 6<sup>th</sup> October 2022. Accompanying the application as a copy of the tenancy agreement 86/AT/6 dated 3<sup>rd</sup> of August 2022 and proof of service. There was a letter on the applicant and a section 11 notice in email to Ayrshire council.

The application was received by the tribunal on 7<sup>th</sup> October 2022. Certain further information was sought from the applicant. A notice of direction was issued and then subsequently the application was accepted.

On 29<sup>th</sup> November 2022, the application was sent to the respondents. The respondents have sent in documentation although not written representations.

**THE CASE MANAGEMENT DISCUSSION**

At the Case Management Discussion, Mr Jarvie from the Appellant’s solicitors attended. Both respondents attended.

The respondents confirmed that they were not opposed to the order being granted but they were trying to find alternate accommodation. They were having difficulty in doing this. They had specific needs and had a family of seven.

However, they did accept that notice originally of the appellant's desire to recover the property have been given in April 2022. They were just simply seeking time with in which to obtain alternate accommodation.

#### **FINDINGS IN FACT**

- 1. The Parties entered into a tenancy agreement dated 24<sup>th</sup> November 2016 for the property at 32 Mauchline Road, Ochiltree, K18 2QA.**
- 2. Rent was due to be paid at the rate of £750 per month payable in advance.**
- 3. The appellant intimated her wish to recover the property and to live in the property. The appellant's marriage has ended and she needs alternate accommodation.**

#### **REASONS FOR DECISION**

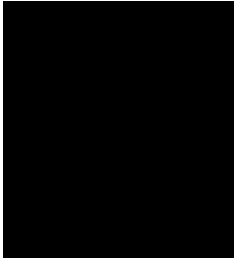
The respondents accepted that the appellant had reasons for recovering the property. The only issue for them was the length of time that they were to be given in order to find alternate accommodation without success, however it was noted that the first notice of this had been given to them in April 2022 and it was approaching a year since they were aware that the appellant wanted the property.

The tribunal determined to make an order for eviction but to delay enforcement for a period of two months.

#### **DECISION**

To grant an order for eviction deferred until 7<sup>th</sup> April 2022.

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.



Legal Member/Chair

08/02/2023

Date