



**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/23/0215**

**Re: Property at 58 Glenburn Avenue, Motherwell, North Lanarkshire, ML1 5EF (“the Property”)**

**Parties:**

**Ms Kathrin Viviers, Auer Str 2B, 08294, Loessnitz, Germany (“the Applicant”)**

**Ms Alex Parkinson, Mr Mark Crockett, 58 Glenburn Avenue, Motherwell, North Lanarkshire, ML1 5EF (“the Respondent”)**

**Tribunal Members:**

**Karen Kirk (Legal Member) and Ann Moore (Ordinary Member)**

### **1. Introduction**

This Case Management Discussion (CMD) concerned an Application for an Eviction Order in respect of a Private Residential Tenancy under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The CMD took place by teleconference. Parties were advised on the procedure of a CMD and the rules regarding them.

### **2. Attendance and Representation**

The Applicant was not present but was represented by her friend Jennifer Muller who was authorised to act on her behalf.

The Respondent, Mark Crockett was present and unrepresented. His partner and the second Respondent Alex Parkinson was not able to attend due to work commitments.

### **3. Preliminary Matters.**

There were no preliminary matters discussed or raised by either party.

#### **4. Case Management Discussion.**

##### *The Applicant.*

The Applicant's representative set out that the applicant sought an Eviction Order in order that she can return to reside in the property. The Applicant moved to Germany after receiving a job offer. She fell pregnant and gave birth to her child in September 2022. Her intention is to move back to the property to live with her child as her principal home. The Applicant has no property in Germany and she can also secure new employment in Scotland. The Applicant's representative said that the Applicant had lived in the property as her own home before she moved Germany. The property is a 2 bedroom mid terrace.

##### *The Respondent.*

The Respondent explained he was not opposed to the application. He said that he considers the eviction would help his family. The Respondent told the Tribunal that his family have been waiting for alternative local authority housing for years. He had 2 children aged 9 years and 11 years who reside in the 2 bedroom property. His daughter who is 9 years of age has autism and both of his children require their own bedroom. The Respondent's 2 children from another relationship aged 15 years and 20 years also return to reside some of the weeks and there is not enough space for them all

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

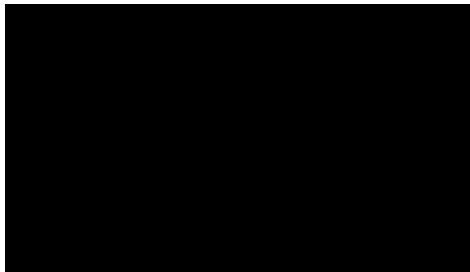
- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The evidence was not in dispute. The Respondents did not oppose the application.**
- 2. The Applicant sought an Order for Eviction on the ground that she sought to live in the property herself.**
- 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 30<sup>th</sup> April 2019. This was agreed.**
- 5. A Notice to Leave was sent to the Respondent on 30<sup>th</sup> November 2021.**
- 6. The Tribunal was satisfied on balance that the Applicant was in terms of Schedule 3, Part 1 Ground 4 of the 2016 Act intending to reside in the property. The Applicant's representative provided personal and credible reasons for the Applicant to wish to reside in the property.**
- 7. The Tribunal found that the requirements of Ground 4 of Part 1, Schedule 3 to the Act had been met.**
- 8. 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. There was no challenge to same.

9. The Tribunal noted the Local Authority under the 2016 had been notified.
10. The Tribunal spent time looking at reasonableness. The Applicant rented the property after living in same when she moved to Germany to take up employment. She wishes now to return to live in the property to raise her child born, who was born in September 2022. The Respondent and his family do not have enough space in the property and have actively been looking for local authority accommodation. They did not oppose the application on the basis they would likely be able to seek alternative accommodation more quickly in the event an order was granted. There was no opposition. The Tribunal found an Order in its discretion 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.

### 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.



Legal Member/Chair

10<sup>th</sup> August 2023

Date