



**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/23/0661**

**Re: Property at 8 James Place, Pitlochry, PH16 5EY (“the Property”)**

**Parties:**

**Mrs Jane Louise Eastwood, Mr Anthony William Eastwood, Catherine Bank, 7 Lower Oakfield, Pitlochry, PH16 5DS; Catherine Bank, 7 Lower Oakfield, Pitlochry, PH16 5DS (“the Applicant”)**

**Mr Andrew Marshall, 8 James Place, Pitlochry, PH16 5EY (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Gerard Darroch (Ordinary Member)**

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

**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 1<sup>st</sup> March 2023. 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 ground 5 of the Private Housing (Tenancies) Act 2016.
2. On 4<sup>th</sup> July 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 11<sup>th</sup> August 2023 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 25<sup>th</sup> July 2023.

3. On 5<sup>th</sup> July 2023, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 5<sup>th</sup> July 2023.

#### The Case Management Discussion

4. A CMD was held on 11<sup>th</sup> August 2023 at 2pm by teleconferencing. The Applicants were present, Mrs Eastwood represented both Applicants. Mrs Eastwood participated in the CMD. Mr Eastwood was with her but had elected not to join in the CMD. The Respondent was present.
5. Mrs Eastwood said that she was still seeking an order for eviction on ground 5, namely that her son was to move into the Property.
6. Mr Scott-Marshall said that he did not understand why the case was proceeding when he intended to move out in the coming weeks. He said that it had always been his intention to move out in October 2023 as he was to remain for only 1 year in the Property. The Tribunal explained that the PRT did not have an end date and the eviction case was to ensure that a tenant moved from a property as not everyone leaves when they say they will. The Tribunal noted that the Cost of Living (Tenant Protection) (Scotland) Act 2022 meant that any order cannot be enforced for 6 months. The Tribunal also noted that this does not mean that Mr Scott-Marshall is restricted to remaining in the Property. Mr Scott-Marshall said again that he would leave on 1<sup>st</sup> November 2023. He did not want to leave before that as he did not want to move his very elderly dog more than he had to as it would cause undue stress to his dog. Mr Scott-Marshall said that he was not opposed to an eviction order being granted. He had not realised the legal implications. He intends to leave well before an eviction can be enforced.
7. The Tribunal was satisfied that ground 5 had been established within the papers submitted. There were no issues of reasonableness as Mr Scott-Marshall did not oppose the order being granted.

#### Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 24<sup>th</sup> September 2022.
9. The Applicants son is to move into the Property with his fiancée.
10. The Respondent intends to leave the Property on 1<sup>st</sup> November 2023. He is to move into another property until his own property purchase completes in January 2024. The Respondent does not object to an order being granted.
11. There are no issues of reasonableness that prevent an order being granted.

## Decision

12. The Tribunal found that ground 5 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.**

**Gabrielle Miller**

**11<sup>th</sup> August 2023**

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**Legal Member/Chair**

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**Date**