



**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/21/1462**

**Re: Property at 11B Woodneuk Street, Chapelhall, Airdrie, ML6 8RP (“the Property”)**

**Parties:**

**Mrs Maureen Condie, 4 Crieff Avenue, Chapelhall, Airdrie, ML6 8HD (“the Applicant”)**

**Mr Paul McGarvey, 11B Woodneuk Street, Chapelhall, Airdrie, ML6 8RP (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision**

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

Introduction

This is an application for eviction under Rule 109 and section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The applicant seeks an Eviction Order.

Service of the application and intimation of the Case Management Discussion (CMD) took place by Sheriff Officers on 8 September 2021. Written submissions were required from the Respondent by 28 September 2021. None were received.

The CMD took place by teleconference on 7 October 2021 at 2.00 pm.

The applicant joined the hearing and was accompanied by her partner Mr Martin Begley who represented her. The respondent also joined the hearing personally.

### Findings and Reasons

The property is 11B Woodneuk Street, Chapelhall, Airdrie ML6 8RP.

The applicant is Mrs Maureen Condie. She is the landlord. The respondent is Mr Paul McGarvey. He is the tenant.

The parties entered into a private residential tenancy in respect of the property which commenced on 6 March 2019. The rent was stipulated at a rate of £375 per month. The written tenancy agreement was provided to the respondent, but was never signed and returned to the landlord. The agreement between the parties is a private residential tenancy under the 2016 Act.

The applicant seeks to recover possession of the property and to evict the respondent on the basis that she intends to live in the property. This is ground 4 under Schedule 3 of the 2016 Act. The notice period for this ground was extended from one of 84 days to one of 3 months due to the coronavirus legislation.

The notice period in the Notice to Leave was miscalculated by a total of three days. The provisions of Schedule 1 to the 2020 Act apply in this case. The relief arising from Paragraph 10 of Schedule 1 to the 2020 Act means that the Notice to Leave is not invalid due to the miscalculation. The Notice to Leave can be relied upon.

The applicant provided much detail regarding her difficult financial circumstances which have led to her requiring to reoccupy the property. As a consequence of the Covid-19 pandemic, she was initially furloughed and then subsequently made redundant. She was occupying a private let property of her own, but has been unable to afford the necessary payments in connection with that. She has applied for numerous jobs, but has not yet had success. She has had to rely upon family and friends for funding. Her explanation in respect of the need to occupy the property was found to be credible and reliable. The Tribunal accepts that the applicant has the intention to live in the let property which forms the substance of this application. This is not disputed by the respondent. The Tribunal was satisfied that ground 4 was established.

The Tribunal proceeded to consider the reasonableness of making the eviction order.

The applicant has been in constant communication with the respondent regarding her own circumstances. The respondent is 65 years of age and has health problems. He is in receipt of Universal Credit. The respondent has no objection in principle regarding removing himself from the property, but currently has nowhere else to move to. He has been in contact with the local authority regarding alternate accommodation, but will not be considered high priority until such time as the Tribunal grants an eviction

order against him. The tribunal found that the making of an eviction order is reasonable having regard to the respective profiles of the parties.

### **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.**

**Richard Mill**

7 October 2021

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Legal Member/Chair

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Date