



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

**Chamber Ref: FTS/HPC/EV/20/0595**

**Re: Property at 20 Kirkpatrick Street, Girvan, KA26 0AD (“the Property”)**

**Parties:**

**Revive Properties Limited, 8 Victoria Drive, Troon, KA10 6EN (“the Applicant”)**

**Mr Timothy Turner, Ms Jade Lyon, UNKNOWN, UNKNOWN, UNKNOWN, UNKNOWN (“the Respondents”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondents in favour of the Applicant.**

**Background**

1. By application dated 19 February 2020 the Applicant seeks an eviction order in terms of Section 51 of the Private Housing Tenancies (Scotland) Act 2016 (“the 2016 Act”). Documents lodged in support of the application include a copy private residential tenancy agreement, Notice to Leave with copy email, rent statement and Notice to the Local Authority in terms of Section 11 of the Homelessness etc (Scotland) Act 2003. A copy of text messages between the parties was also submitted which relate to attempts by the Applicant to arrange access for estate agents, in connection with the proposed sale of the property. The application is based on ground 1 of schedule 3, landlord intends to sell the let property.
2. The Tribunal attempted to serve a copy of the application and supporting documents on the Respondents. However, the Sheriff Officers were unable to

effect service and reported on 8 July 2020 that the property appeared to be unoccupied. A neighbour had advised the Sheriff Officers that the Respondents had vacated the property approximately 2 months before. The neighbour was unable to provide a forwarding address. As the Respondent's whereabouts are unknown, the Tribunal proceeded to serve the application by advertisement on the Tribunal website from 23 July to 28 August 2020. All parties were notified that a case management discussion ("CMD") would take place by telephone case conference on 28 August 2020 at 10am and they were required to participate.

3. The case called for a CMD on 28 August 2020 at 10am. The Applicant was represented by Dr Revie, a director. The Respondents did not participate.

### **Case Management Discussion**

4. Dr Revie advised the Legal Member that he last heard from the Respondents on 10 July 2020, when Ms Lyon indicated that they had not yet moved all of their belongings from the property. He visited the property shortly afterwards. The curtains were drawn so he could not see what was inside. There was mail piled up at the door. He has had no further contact from the Respondents since that date. In response to questions from the Legal Member, Dr Revie confirmed that he delivered the Notice to leave to the property on 14 January 2020. He knocked on the door, but no one answered. He put the Notice through the letterbox. The Second Respondent contacted him later that day and confirmed it had been received. Dr Revie advised the Legal Member that the Applicant intends to put the property on the market for sale. He hoped to do this 6 months ago, but the Respondents would not provide access for Estate Agents to value the property and prepare the home report. From March 2020 onwards, the Government lockdown added to the access issues. He confirmed that he has contacted Estate Agents with a view to getting the property on the market, as soon as the property is recovered. Dr Revie confirmed that an eviction order is sought.

### **Findings in Fact**

5. The Applicant is the owner and landlord of the property.
6. The Respondents are the tenants of the property in terms of a private residential tenancy agreement.
7. The Applicant intends to sell the property.

## Reasons for Decision

8. The tenancy started on 4 November 2019. The application to the Tribunal was submitted with a Notice to Leave dated 14 January 2020. The Applicant also submitted a copy of an email of the same date, addressed to the Respondents, which states that the Notice to Leave had been delivered to the property that day. During the CMD the Applicant confirmed that he had attended at the property on 14 January 2020 and posted the Notice to leave and an updated rent statement through the letterbox. This was acknowledged by the Respondents later that day. The Notice states that an application to the Tribunal is to be made on ground 1, landlord intends to sell the let property. Part 4 of the notice indicates that the earliest date that an application to the Tribunal can be made is 12 February 2020. The application to the Tribunal was made after expiry of the notice period. The Legal Member is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice and evidence that it was sent to the Local Authority by email. The Legal Member is satisfied that the Applicant has complied with Section 56 of the 2016 Act.
9. Section 51(1) of the 2016 Act states, “ The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.” Ground 1 states “(1) It is an eviction ground that the landlord intends to sell the let property. (2) The First-tier Tribunal must find that the ground named by sub- paragraph (1) applies if the landlord – (a) is entitled to sell the let property, and (b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it.”
10. The Legal Member is satisfied that the Applicant, as owner of the property, is entitled to sell same. The Legal member is also satisfied, from the documents submitted with the application, and the information provided at the CMD, that the Applicant intends to put the property on the market for sale when it has recovered possession of same. The Legal Member therefore concludes that the eviction ground has been established.
11. As the Applicant has complied with the requirements of the 2016 Act, and as the eviction ground has been established, the Legal Member determines that an eviction order must be granted.

## Decision

12. The Legal Member determines that an eviction order should be granted 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.**

Josephine Bonnar

**Josephine Bonnar, Legal Member**

**28 August 2020**