



**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/20/2226**

**Re: Property at 5 Langlaw Road, Mayfield, Dalkeith, EH22 5AY (“the Property”)**

**Parties:**

**Miss Rhiannon Kennedy, Mr Mark Duncanson, C/O 31A North Bridge Street, Bathgate, West Lothian, EH48 4PJ (“the Applicants”)**

**Mr Maciej Zawadzki, Mrs Marlena Barbara Zawadzka, 5 Langlaw Road, Mayfield, Dalkeith, EH22 5AY; 5 Langlaw Road, Mayfield, Dalkeith, EH22 5AY (“the Respondents”)**

**Tribunal Member:**

**Nicola Irvine (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants are entitled to the order for recovery of possession of the property.**

**Background**

A case management discussion took place on 16 December 2020 and reference is made to the Note of the discussion. The case management discussion was continued to today to enable the Applicants representative to submit evidence in support of the ground for eviction relied upon.

The Applicants’ representative submitted an affidavit of the First Applicant which was sworn on 12 January 2021. A copy of that affidavit was intimated to the Respondents in advance of today’s case management discussion.

## **The Case Management Discussion**

The case management discussion took place by conference call. The Applicants were represented by Miss Matheson and both Respondents participated.

The Applicants' representative advised that the First Applicant intends to obtain a residential mortgage over the property as opposed to a buy to let mortgage which the Applicants currently have. The First Applicant's intention is to live in the property permanently if the order sought is granted. The order is sought on the basis of ground 4 of schedule 3 of the 2016 Act. The Applicants' representative submitted that it was reasonable in all the circumstances for the Tribunal to grant the order for eviction. The Respondents advised that they did not have any evidence to contradict the contents of the First Applicant's affidavit. The Respondents accepted that the ground for eviction had been made out. The Respondents sought guidance in relation to when they would be required to vacate the property. It was agreed that the parties would discuss practical matters directly.

## **Findings in Fact:**

1. The Applicants and the Respondents entered into a Tenancy Agreement which commenced 01 February 2019
2. The rent payable was £735 per calendar, payable in advance.
3. The Applicants' representative served Notice to Leave on 09 July 2020 by email.
4. The First Applicant intends to live in the property as her principal home for a period exceeding 3 months.
5. The Applicants are entitled to the Order sought for repossession.

## **Reason for Decision**

The Tribunal proceeded on the basis of the written documents which were before it and the submissions made by both parties. The Applicant invited the Tribunal to make the Order sought. The Applicant relied upon Ground 4 of Schedule 3 of the 2016 Act. The Notice to Leave had been properly served. The Tribunal was satisfied that it was reasonable in the circumstances to grant the order for eviction and that Ground 4 had been established. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

## **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.

**Nicola Irvine**

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Legal Member/Chair

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Date **9 February 2021**