



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

**Chamber Ref: FTS/HPC/EV/21/2975**

**Re: Property at 41 Brown Hill Street, Dundee, DD2 4JS (“the Property”)**

**Parties:**

**Mr Salman Shareef, 32 William Street, Dundee DD1 2NJ (“the Applicant”)**

**Ms Louise Brown, 41 Brown Hill Street, Dundee, DD2 4JS (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member) and Helen Barclay (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing, that it was satisfied that the requirements of Ground 4 of Schedule 3 to the Private Housing (Residential Tenancies) (Scotland) Act 2016 (“the 2016 Act”) had been met and that it was reasonable to issue an Eviction Order.**

**Background**

By application, received by the Tribunal on 26 November 2021, the Applicant sought an Eviction Order against the Respondent under Section 51 of the 2016 Act. The Ground relied on was Ground 4 of Schedule 3 to the Act, namely that the landlord intends to live in the Property.

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 21 October 2019, and a Notice to Leave dated 6 September 2021, advising the Respondent that Ground 4 was being relied on and that no application for an Eviction Order would be made before 8 December 2021, with proof of delivery of that Notice on the Respondent on 7 September 2021.

In written representations received on 16 December 2021, the Applicant’s agents provided an Affidavit by the Applicant of the same date in which he solemnly and sincerely declared his intention to occupy the Property as his only or principal home

for a period in excess of three months. They advised the Tribunal that the rent for The Applicant's present accommodation was unaffordable and that neither he nor his wife was entitled to any assistance by way of benefits to help with rental payments. He had two daughters, one of whom was disabled, and a son, and required a minimum of three bedrooms until such time as Dundee City Council might be able to rehouse him and his family with an additional room for his disabled daughter. It was, therefore, reasonable for the Tribunal to issue an Eviction Order.

On 9 February 2022, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 2 March 2022. The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held by means of a telephone conference call on the morning of 24 March 2022. The Applicant was represented by Mr Alec Campbell of Messrs Campbell Boath, solicitors, Dundee. The Respondent was not present or represented.

The Applicant's representative told the Tribunal that, earlier in the week, his firm had been contacted by telephone by the Respondent, who had said that she would be vacating the Property in the next 2-3 weeks and had provided the address of the property in Errol to which she would be moving. That indicated her intention to leave, but Mr Campbell's instructions remained to seek an Eviction Order, in case she did not do so. He contended that it showed that she was actively seeking to move, which strengthened the argument that it was reasonable to issue the Eviction Order.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

Ground 4 of Schedule 3 to the Act states that it is an Eviction Ground that the landlord intends to live in the let property and that the Tribunal must find that Ground 4 applies if the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months. The Schedule provides that evidence tending to show that the landlord has this intention includes (for example) an Affidavit stating that that landlord has that intention.

The Tribunal was satisfied from the written representations and the Affidavit of 16 December 2021, that the requirements of Ground 4 had been met. In terms of the Coronavirus (Scotland) Act 2020, however, the Tribunal had also to be satisfied that it would be reasonable to issue an Eviction Order.

The Tribunal noted the personal circumstances of the Applicant and the fact that it was reported that the Respondent had said that she had secured alternative accommodation, the address of which she had provided to the Applicant's agents. She had not made any written representations as to her personal circumstances and had not attended or been represented at the Case Management Discussion, so had not provided any information for the Tribunal to consider when deciding whether it was reasonable to issue an Eviction Order against her. Taking into account all the

evidence before it, the Tribunal was satisfied that it would be reasonable to issue an Eviction Order.

### **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.**

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Legal Member/Chair

24 March 2022  
Date