



**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/19/0069**

**Re: Property at 52 Carlops Avenue, Penicuik, EH26 0DH (“the Property”)**

**Parties:**

**Ms Claire Burnet, C/O Allingham and Co, 4A Buckstone Terrace, Edinburgh, EH10 6PZ (“the Applicant”)**

**Mr Joshua Alpha, Ms Ruth Alpha, 52 Carlops Avenue, Penicuik, EH26 0DH (“the Respondent”)**

**Tribunal Members:**

**Fiona Watson (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order against the Respondent(s) for eviction of the Respondent(s) from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 under schedule 3 of the said 2016 Act.**

- **Background**

An application was submitted to the Tribunal in terms of Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). Said application was dated 8 January 2019 and sought an order for repossession of a Private Residential Tenancy in terms of Ground 1 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”), in that the landlord intends to sell the property within 3 months of the tenant ceasing to occupy it.

- The Case Management Discussion

The Case Management Discussion (“the CMD”) took place on 14 March 2019. The Applicant was represented by Mr Runciman of Gilson Gray, Solicitors. The Respondents were both personally present.

Mr Runciman moved the Tribunal to grant the order as sought by the Applicant. The Respondents occupied the Property by virtue of a Private Residential Tenancy which commenced 15 August 2018. A Notice to Leave had been served on each of the Respondents by Sheriff Officer on 28 November 2018 seeking their removal from the property on the basis of Ground 1 of Schedule 3 to the 2016 Act, in that the landlord intends to sell the property. A letter was attached to said Notice to Leave from Allingham & Co Solicitors, confirming they were instructed to market the property. Mr Runciman submitted that the Respondents had failed to remove from the property by 27 December 2018, being the date specified on the Notice to Leave as being the earliest date that proceedings could be raised. The Respondents had occupied the property for less than 6 months at the time of issuing the Notice to Leave and therefore the notice period of 28 days applied, in terms of section 54(2)(b)(i) of the 2016 Act. The Ground relied upon was a mandatory one. An Order for Eviction should be granted.

The Respondents confirmed that they had received the Notice to Leave and were actively looking for alternative accommodation. They have a daughter with special needs. They have been unable to secure alternative accommodation. They sought more time to find suitable alternative accommodation and suggested 3 months would be sufficient.

Mr Runciman reiterated his position that he was seeking the Order to be granted as per the application, under the usual timescales.

- Findings in Fact

The Tribunal made the following findings in fact:

1. The Respondents were occupying the Property in terms of a Private Residential Tenancy which commenced 15 August 2018.
2. A Notice to Leave was served on the Respondents on 28 November 2018 relying on ground 1 of Schedule 3 to the 2016 Act
3. The Respondents had occupied the property for less than 6 months at the time of issuing the Notice to Leave and therefore the notice period of 28 days applied, in terms of section 54(2)(b)(i) of the 2016 Act.
4. The Landlord as heritable proprietor of the property is entitled to sell the Property
5. The Landlord has instructed Allingham & Co, Solicitors to market the property for sale

- Reasons for Decision

The Tribunal was satisfied that Ground 1 applied. Under Ground 1(2)(a) of Schedule 3 to the 2016 Act the Landlord, as heritable proprietor of the Property, is entitled to sell the let property and 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 under Ground 1(2)(b) of Schedule 3 to the 2016 Act. The Tribunal was satisfied with the documentation lodged that confirmed that Allingham & Co Solicitors have been appointed as marketing agents. Accordingly, the Tribunal was satisfied that Ground 1 applied and accordingly the Applicant was entitled to the Order sought.

- Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent(s) for eviction of the Respondent(s) from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 under schedule 3 of the said 2016 Act.

### 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.**

F.Watson

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Legal Member/Chair

14/3/19  
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Date