



**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/19/1430**

**Re: Property at 287 Dyke Road, Glasgow, G13 4RN (“the Property”)**

**Parties:**

**Carbeth Properties Limited, 261 Southbrae Drive, Glasgow, G13 1TR (“the Applicant”)**

**Miss Stacey Blair, 287 Dyke Road, Glasgow, G13 4RN (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal 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 granted without a hearing and made an Eviction Order**

**Background**

By application, received by the Tribunal on 13 May 2019, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”).

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 20 January 2018, a Notice to Leave dated 12 February 2019, with a copy of an e-mail from the Applicant to the Respondent, also dated 12 February 2019, to which the Notice to Leave had been attached and a Marketing Agreement between the Applicant and Fielding McLean & Co, solicitors, Glasgow, dated 10 May 2019.

The Notice to Leave advised the Respondent that the Applicant was intending to sell the Property and that the Applicant would not make an application to the Tribunal for an Eviction Order before 8 May 2019.

On 11 June 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and invited the Respondent to make written

representations no later than 29 June 2019. The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held at the Glasgow Tribunals Centre, 20 York Street, Glasgow on the morning of 22 July 2019. The Applicant was represented by Mr Billy Hannah, one of its Directors, who asked the Tribunal to make the Order without a hearing and advised that it remained the intention to sell as soon as practicable after the Respondent vacated the Property..

### **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 and that it would determine the application without a hearing.

Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a private residential tenancy if, on a an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies.

Ground 1 of Part 1 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the landlord intends to sell the let property and that the Tribunal must find that Ground 1 applies if the landlord 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. Evidence tending to show that the landlord has that intention includes a letter of engagement from a solicitor or estate agent concerning the sale of the let property.

The Tribunal was satisfied that the Marketing Agreement which it had seen met the requirements of the Act and that it must find that Ground 1 of Part 1 of Schedule 3 to the 2016 Act applied. The Tribunal was also satisfied that the period of notice set out in the Notice to leave (being 85 days) met the requirements of Section 54 of the 2016 Act, which states that a landlord may not make an application to the Tribunal for an Eviction Order until the expiry of the relevant period in relation to that notice. In the present case, the relevant period was 84 days following the date on which the Respondent received the Notice to Leave, which had been attached to an e-mail to the Respondent dated 12 February 2019.

### **Decision**

The Tribunal determined that the application should be granted without a hearing and made 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.

George Clark  
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Legal Member/Chair

22 July 2019  
\_\_\_\_\_  
Date