



**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/22/0042**

**Re: Property at 82 Eday Road, Summerhill, Aberdeen, AB15 6JP (“the Property”)**

**Parties:**

**Mr Chijoke Akwukwuma, 81A Higher Drive, Purley, Surrey, CR8 2HN (“the Applicant”)**

**Mr Graham Robb, Mrs Claire Louise Robb, 82 Eday Road, Summerhill, Aberdeen, AB15 6JP (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member) and Mike Scott (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction should be granted.**

**Background**

On 7th January 2022 the Applicants lodged an application with the Tribunal in terms of Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking an order for eviction of the Respondents in terms of Ground 4 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.

Lodged with the Application were:

1. Copy Tenancy Agreement with commencement date 1<sup>st</sup> June 2020
2. Notice to Leave dated 29th September 2021 to leave on 1<sup>st</sup> January 2022
3. Section 11 Notice
4. Letter from the Applicant dated 10<sup>th</sup> February 2022 confirming his intention to reside at the property

5. Receipts to show that the Applicant has been renting property in Aberdeen since the date the Notice to Leave expired.

The papers were served on the Respondents by Sheriff Officer on 22<sup>nd</sup> March 2022.

The Respondents lodged a Written Submission on 6<sup>th</sup> April 2022.

On 28<sup>th</sup> April 2022 the Applicant's representative submitted evidence to show that the Applicant's daughter had been offered a conditional place to study medicine at Aberdeen University.

### **Case Management Discussion**

A Case Management Discussion ("CMD") took place by teleconference on 9<sup>th</sup> May 2022.

The Applicant was present and was represented by Calum Sinclair of Stonehouse Lettings. The First Respondent represented himself and the Second Respondent. Both were on the call.

Mr Sinclair confirmed that he was seeking an order for eviction in terms of the application.

The First Respondent said that the Respondents were not opposing the application. They have applied to both Aberdeen City Council and Grampian Housing Association and have been told that there needs to be an eviction date before they can be assisted. He confirmed that they understood the Landlord's position.

### **Findings In Fact**

1. The parties entered in to a Private Residential Tenancy commencing on 1<sup>st</sup> June 2020;
2. Notice to Leave was served on the Respondents correctly and timeously;
3. The Respondents did not oppose the eviction order being granted.

### **Reasons For Decision**

The Tribunal were satisfied from the information put forward that the ground of eviction had been established.

Granting an application for eviction based on Ground 4 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 provided that the notices are correct and have been served correctly, is normally mandatory. However, in terms of Section 2 and Schedule 1, Paragraph 1 of the Coronavirus (Scotland) Act 2020 makes the ground discretionary and the Tribunal has to consider reasonableness. The section is as follows:

*1(1)The Private Housing (Tenancies) (Scotland) Act 2016 applies, in relation to a notice to leave within the meaning of section 62 of that Act served on a tenant while this paragraph is in force, in accordance with the modifications in this paragraph.*

*(2)Section 51(2) (First-tier Tribunal's power to issue an eviction order) has effect as if the words "or must" were repealed.*

*(3)Schedule 3 (eviction grounds) has effect as if—*

*(a)in paragraph 1(2) (landlord intends to sell)—*

*(i)in the opening words, for the word "must" there were substituted "may",*

*(ii)after paragraph (a), the word "and" were repealed,*

*(iii)after paragraph (b) there were inserted " , and*

*(c)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.",*

*(b)in paragraph 2(2) (property to be sold by lender)—*

*(i)in the opening words, for the word "must" there were substituted "may",*

*(ii)after paragraph (b), the word "and" were repealed,*

*(iii)after paragraph (c) there were inserted " , and*

*(d)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.",*

*(c)in paragraph 3(2) (landlord intends to refurbish)—*

*(i)in the opening words, for the word "must" there were substituted "may",*

*(ii)after paragraph (b), the word "and" were repealed,*

*(iii)after paragraph (c) there were inserted " , and*

*(d)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.",*

*(d)in paragraph 4(2) (landlord intends to live in property)—*

*(i)for the word "must" there were substituted "may",*

*(ii)the words from "the landlord" to "3 months" were paragraph (a),*

*(iii)after paragraph (a) there were inserted " , and*

*(b)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.",*

*(e)in paragraph 6(2) (landlord intends to use for non-residential purpose)—*

*(i)for the word "must" there were substituted "may",*

*(ii)the words from "the landlord" to "home" were paragraph (a),*

(iii) after paragraph (a) there were inserted “, and

(b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.”,

(f) in paragraph 7(2) (property required for religious purpose)—

(i) in the opening words, for the word “must” there were substituted “may”,

(ii) after paragraph (b) the word “and” were repealed,

(iii) after paragraph (c) there were inserted “, and

(d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,

(g) in paragraph 8 (not an employee)—

(i) in the opening words of sub-paragraph (2), for the word “must” there were substituted “may”,

(ii) for paragraph (c) there were substituted—

“(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,

(iii) sub-paragraph (3) were repealed,

(iv) in sub-paragraph (4), for the words “sub-paragraphs (2) and (3)” there were substituted “sub-paragraph (2)”,

(h) in paragraph 10(2) (not occupying let property)—

(i) in the opening words, for the word “must” there were substituted “may”,

(ii) after paragraph (a), the word “and” were repealed,

(iii) after paragraph (b) there were inserted “, and

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,

(i) in paragraph 12 (rent arrears), sub-paragraph (2) were repealed,

(j) in paragraph 13(2) (criminal behaviour)—

(i) in the opening words, for the word “must” there were substituted “may”,

(ii) after paragraph (a), the word “and” were repealed,

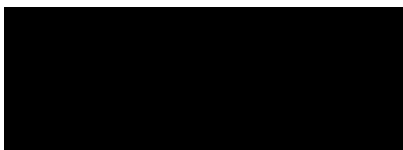
(iii) after paragraph (b) there were inserted “, and

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”.

The Tribunal has to consider all the circumstances relevant when deciding on reasonableness. However in this case the Respondents were not opposed to the order being granted and in the circumstances the Tribunal considered it reasonable to grant the eviction.

## 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.



Legal Member/Chair

9th May 2022

Date