



**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/23/1982**

**Re: Property at 1/2 Cameron Way, Prestonpans, EH32 9FH (“the Property”)**

**Parties:**

**Miss Nicola Hunter, 69A Leithen Road, Innerleithen, EH44 6HY (“the Applicant”)**

**Ms Tracey Luby, 1/2 Cameron Way, Prestonpans, EH32 9FH (“the Respondent”)**

**Tribunal Members:**

**Lesley Ward (Legal Member) and Helen Barclay (Ordinary Member)**

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

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the eviction of the Respondent from the property at 1/2 Cameron Way, Prestonpans, EH32 9FH be made on ground 1A of schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (landlord intends to sell the property to alleviate financial hardship) and it is reasonable in all of the circumstances that the eviction be granted.

**Background**

2. This was a case management discussion (‘CMD’) in connection with an Application for eviction in terms of rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Procedure Regulations 2016, (‘the rules’) on ground 1A (landlord intends to sell to alleviate financial hardship) of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (‘the Act’). The Applicant attended. The Respondent did not attend and was not represented.

3. The Tribunal had before it the following copy documents:

- Application dated 18 June 2023.

- Land certificate.
- Landlord registration details.
- Private Residential Tenancy Agreement.
- Notice to leave dated 19 March 2023.
- Evidence of service of notice to leave.
- S11 notice and proof of service.
- Execution of service by sheriff officers dated 28 September 2023.
- Mortgage statement dated 10 July 2020.
- Mortgage Statement dated March 2023.
- Wealth Account Summary dated 17 March 2023.
- Bank statements from December 2022 to March 2023.
- Letter accompanying notice to leave.
- Income and Outgoings.
- Email from Karen Scott of Warners Solicitor re sale of the property dated 9 March 2023.

#### **4. Preliminary matters**

The Respondent did not attend the CMD and was not represented. The Tribunal had sight of the execution of service by Sheriff Officers dated 28 September 2023 and was satisfied that they had received appropriate notice in terms of rule 24. The Tribunal was satisfied that it was fair to proceed in her absence in terms of rule 29.

#### **5. Discussion**

The Applicant has lodged several documents in support of the application. The Applicant explained that the documents lodged were given to the Respondent with the notice to leave on 19 March 2023. The Applicant explained that some of the outgoings for the property have increased since March 2023 such as the mortgage, factoring charges and management fees. The Applicant gave detailed evidence to the Tribunal regarding all of the entries in her handwritten list of income and outgoings. The Applicant's income has reduced since March 2023 as she no longer works for Coltmans Kitchens. The Applicant is relying on her savings to meet her outgoings. The rent from the property used more than adequately cover the outgoings for it and also generated a small income. This is the Applicant's only rental property and she intends to sell it to pay off the mortgage and realise the capital to enable her to run her dog walking business and reduce her overheads.

As far as the Respondent's circumstances are concerned the Applicant stated that the Respondent lives alone and is employed by the Salvation Army in one of their charity shops. She has been to see the local authority to obtain alternative housing and has been told that an eviction order is required to progress this. The Respondent began to incur some rent arrears in October 2022 due to a shortfall in her Universal credit and there are around £600 of arrears.

## 6. Findings in fact

- The Applicant is the owner of the property and the registered landlord. .
- The parties entered into a private residential tenancy for let of the property from 19 August 2019.
- The agreed monthly rental payment was £550.
- The Applicant's mortgage payments for the property in August 2019 were around £190.
- The monthly mortgage payments have increased to £482.09.
- The Applicant has other outgoings for the property in respect of factors fees and management fees of around £112.
- The Applicant has a shortfall each month of around £40.
- The Applicant's income has reduced since March 2023 of around £527 per month.
- The Applicant' monthly income including rent is around £1100.
- The Applicant's monthly outgoings are around £2414.
- The Applicant served the Respondents with a valid notice to leave on 19 March 2023.
- The notice to leave expired on 16 June 2023.
- Rent arrears began to accrue around October 2022.
- There are around £600 of arrears.

## 7. Reasons


This is an undefended eviction Application. The Tribunal was satisfied that the procedure has been fair. The Applicant has a shortfall from the property of around £40 each month and her current income is exceeded by her outgoings by over £1000 per month. The Tribunal was satisfied that the applicant intends to sell the property to alleviate financial hardship The Tribunal was satisfied that it is reasonable in all of the circumstances 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.**

**Lesley Anne Ward**

  
**Lesley Anne Ward**  
**Legal Member**

**13 October 2023**