



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016**

Reference number: FTS/HPC/EV/23/2475

Order granted on 18 October 2023

**Re: Property at 36 Craggan Drive, Glasgow, G14 0EW (“the Property”)**

**Parties:**

Mrs Margaret Anne Elizabeth MacKenzie, residing at Tulach Ard 5A Farmstead Road, Dalgety Bay, Fife, KY11 9HW (“the Applicant”)

Ms Dawn Dunstance, residing at 36 Craggan Drive, Glasgow, G14 0EW (“the Respondent”)

**Tribunal Members:**

**Paul Doyle (Legal Member)**  
**Gerard Darroch (Ordinary member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1A of schedule 3 to the 2016 Act.**

**Background**

1. The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant had lodged with the Tribunal Form E. The documents produced are a Tenancy Agreement dated 14/05/2019; a notice to leave served on 25/07/2023, a Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 and a schedule of unpaid rental. A copy title sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

2. By interlocutor dated 14/08/2023, the application was referred to this tribunal. On 11/09/2023 the First-tier Tribunal for Scotland (Housing and Property Chamber)

served notice of referral on both parties, directing the parties to make any further written representations. The applicant's representative lodged a detailed written submission on 05/09/2023. The respondent set her position out in an email dated 17/10/2023.

3. A case management discussion took place by telephone conference at 10.00am on 18 October 2023. The Applicant was represented by Ms J Forbes of Innes Johnston LLP. The respondent was unrepresented but helped by her friend, Ms G McLaughlan.

### **Findings in Fact**

The Tribunal made the following findings in fact:

4. The Tribunal made the following findings in fact:

(i) The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the Property on 14/05/2019.

(ii) The rent in terms of the Tenancy Agreement is £650 per month.

(iii) The respondent has not paid rental since April 2023. There are now arrears of rent totalling £4.450.

(iv) On 28/04/2023 the applicant served a notice to leave on the respondent. A section 11 notice was served on both the respondent and the local authority by the applicant.

(v) The respondent remains in the property with her three children, who are all aged under 10 years. The respondent receives Employment & Support Allowance and Housing Benefit.

(vi) A mortgage is secured over the property. The mortgage must be paid back to the heritable creditor on 15/11/2023. The applicant has no means to repay the mortgage and has to sell the property to prevent repossession of the property by the heritable creditor. The applicant cannot secure another mortgage over the property because of her age.

(vii) The respondent accepts that the applicant wants to sell the property to avoid financial hardship. The respondent agrees that it is not unreasonable for an order for repossession to be granted but needs more time to secure suitable alternative accommodation.

(viii) On 28/04/2023 the applicant served a notice to leave on the respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 25/07/2023, the applicant submitted an application to the tribunal.

5. The Applicant seeks recovery of possession of the Property in terms of Ground 1A of schedule 3 to the 2016 Act. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

### **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms of Grounds 1A of schedule 3 to the 2016 Act is established. The respondent offers no resistance to the application, but needs time to find suitable alternative accommodation. For these reasons, the Tribunal determined to grant an Order for possession which cannot be enforced until 12 February 2024.

### **Decision**

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Grounds 1A of schedule 3 to the 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.**

**Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**



**Legal Member**

**18 October 2023**