



**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/23/3426**

**Re: Property at 11 Duncairn Avenue, Bonnybridge, Falkirk, FK4 1EA (“the Property”)**

**Parties:**

**Mr Kevin Cunningham, 57 Demoreham Avenue, Denny, FK6 5BJ (“the Applicant”)**

**Miss Claudia Madeira, Mr Fabio Pereira, 11 Duncairn Avenue, Bonnybridge, Falkirk, FK4 1EA (“the Respondents”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision (in absence of the Second Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants are entitled to the Order sought for recovery of possession of the property.**

**Background**

1. The Applicant submitted an application under Rule 109 for an order to evict the Respondents from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 27 March 2024 informing both parties that a CMD had been assigned for 30 April 2024 at 2pm, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers

the procedure to have been fair. The Respondents were invited to make written representations by 17 April 2024. No written representations were received.

### **The case management discussion**

4. The CMD took place by conference call. The Applicant was represented by Mrs Pauline Cunningham. The First Respondent joined the conference call and was accompanied by her friend, Claire Bowie. The Second Respondent did not join the conference call and the discussion proceeded in his absence. The Tribunal explained the purpose of the CMD. The Applicant's representative explained that the Applicant lost his job at the end of 2023. He is married with 2 children . He has struggled to meet his financial commitments and has been financially supported by his mother. The Tribunal explained that there is no documentary evidence about financial hardship, beyond the letters which indicate that mortgage arrears had accrued. The Applicant's representative explained that the Applicant did not want to disclose his financial information to the Respondents. The Applicant was however prepared to rely on ground 1 on the basis that the Applicant does intend to sell the property.
5. The First Respondent explained that she and her 3 children live in the property. She has been in touch with the local authority but no alternative accommodation has been identified. The Respondent does not want to continue to live in the property but she has nowhere else to live and is waiting on the local authority rehousing her.
6. The Tribunal adjourned briefly to consider the information provided by both parties. The Tribunal explained that it found the ground of eviction established and that it was reasonable to grant the order. However, the Tribunal exercised its discretion in terms of section 216(4) of the Bankruptcy and Diligence Etc (Scotland) Act 2007 and extended the period of charge specified in section 216(1) of the Act by 30 days.

### **Findings in Fact**

7. The parties entered into a private residential tenancy which commenced 7 August 2018.
8. The Applicant served Notice to Leave on the Respondents by email and personal delivery on 9 May 2023.
9. The Applicant intends to sell the let property.

### **Reason for Decision**

10. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicant relied upon ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016. The First Respondent did not

dispute that the Applicant intends to sell the property. The First Respondent explained that she did not want to continue to live in the property and was waiting on the local authority providing alternative accommodation. The Tribunal was satisfied that ground 1 had been established and that it was reasonable to grant the order sought. However, in order to afford the First Respondent more time to find alternative accommodation, the Tribunal extended the period of charge by 30 days in order to delay execution of the 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.**

Nicola Irvine

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**Legal Member**

**30 April 2024**

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**Date**