



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 and Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules)**

**Ref: FTS/HPC/EV/24/3135**

**Re: 41 Park Road, Kirkcaldy, Fife, KY1 3EN (the Property)**

**Parties:**

**Mr Robert Graham and Mrs Elizabeth Graham, 14 Braehead Road, Kirkcaldy, KY2 6XP (the Applicant)**

**Innes Johnston LLP, 14 North Street, Glenrothes, Fife, KY7 5NA (the Applicant's Representative)**

**Ms Ashley Burns and Mr John Bell, 41 Park Road, Kirkcaldy, Fife, KY1 3EN (the Respondents)**

**Tribunal Members:**

**Ms Susanne L. M. Tanner K.C. (Legal Member)**

**Mr Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal):**

**(1) was satisfied that Ground 1 in Schedule 3, Part 1 to the 2016 Act was established by the Applicant, in that on the day the tribunal considered the application for an eviction on its merits: the registered proprietors intend to sell the let Property for market value, or at least put it up for sale within three months of the Respondent ceasing to occupy it; and that it was reasonable to make an eviction order in the circumstances, with an postponement of the date for enforcement of the order to 30 April 2025; and made an order for eviction in terms of Section 51 of the 2016 Act.**

**(2) The decision of the tribunal was unanimous**

## **Statement of Reasons**

### **Procedural Background**

1. The Applicants' Representative made an application to the tribunal on 9 July 2024 in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules). The Applicants seek the Respondents' eviction from the Property under Ground 1 of Schedule 3.
2. The Applicants' Representative provided the following documents with the Application:
  - 2.1. Paper apart;
  - 2.2. Evidence to show the eviction ground has been met;
  - 2.3. Private Residential Tenancy agreement;
  - 2.4. Copy Notice to Leave and proof of delivery; and
  - 2.5. Copy section 11 Notice to the Local Authority with proof of delivery by email.
3. On 10 July 2024, the tribunal's administration obtained a copy of the Title deeds for the Property which shows that the Applicants have been the registered proprietors since 25 June 2012.
4. The tribunal's administration obtained a copy of the registered landlord details for the Property which show that it was registered by the Applicant limited company at an address at 2 Craighend park, Edinburgh, EH16 5XY. No agent details were registered.
5. On 31 July 2024, the application was accepted for determination. The tribunal sent letters of notification to all parties with the date, time and arrangements for joining the Case Management Discussion ("CMD") teleconference in relation to the Application on 7 March 2025 at 1000h. The Application paperwork was personally served on the Respondents by Sheriff Officers. The Respondents were told that if they wished to submit written representations these should be sent to the tribunal by a specified date.
6. The Respondents did not submit any written representations to the tribunal.

### **CMD: 7 March 2025, 1000h, Teleconference**

7. Mrs McAndie from the Applicants' Representative attended.

8. Ms Burns, one of the Respondents, attended on her on behalf and on behalf of her partner Mr Bell. She said that he has a hearing difficulty.
9. The tribunal explained the nature and purpose of the CMD and heard from both parties.

### **Submissions by the Respondent(s)**

10. Ms Burns said that the eviction application is not opposed by her and Mr Bell. She said that they got full custody of Mr Bell's daughter in 2014. The family of five is staying in two bedroomed property, so it is not large enough. One of the children has a bone condition and the house is not medically equipped to meet their needs. Ms Burns and Mr Bell understand that the landlords want to sell the property. Ms Bell said that they have an occupational therapist who she hopes will assist in relation to housing needs.
11. Ms Bell said that she has made enquiries with the local authority about suitable accommodation. She has made an application. She has been told that the local authority cannot do anything until an eviction order is made. Ms Bell said that the local authority had told her that it usually takes 12 weeks to find somewhere but that because of the family's medical needs, they will not put the family in temporary housing and the local authority will be looking for permanent housing. Ms Bell said that the local authority is aware of the CMD in the eviction application and that she intends to contact the local authority after the outcome of the CMD.

### **Submissions by the Applicants' Representative**

12. Ms McAndie said that the Applicants are seeking an eviction order to be made as soon as possible. She opposed any extension of the time for enforcement of the order. She said that her clients have already been in limbo for a number of months. They first instructed an estate agent in the middle of last year and have not been able to list the property for sale. Mrs McAndie hoped that the local authority would be able to re-house the family in the normal timescale in the circumstances.

### **13. The tribunal makes the following findings-in-fact:**

- 13.1. The Applicants are the registered proprietors of the Property.
- 13.2. The Applicants purchased the Property as an investment.

- 13.3. The Applicants have retired and wish to sell the Property and realise the proceeds for their retirement.
- 13.4. There is a private residential tenancy agreement between the Applicants and the Respondents for the Property.
- 13.5. The Respondents live in the Property with three children.
- 13.6. The Property has two bedrooms and is not large enough for the family of five.
- 13.7. One of the Respondents' children has a medical condition and the Property is unsuitable to meet their needs.
- 13.8. On 21 February 2024, a Notice to Leave containing ground 1 of Schedule 3 to the 2016 Act was served on the Respondent.
- 13.9. The Applicants have given the Respondents at least 84 days' notice that they require possession.
- 13.10. The Application to the tribunal was made on 9 July 2024.
- 13.11. The registered proprietors intends to sell the Property on the open market or at least market it for sale within three months of vacant possession.
- 13.12. The Respondents have told the local authority about the eviction application and made an application for local authority housing which is suitable for their family's needs.

#### **14. Findings in fact and law**

- 14.1. The tribunal is satisfied that the facts required in paragraph 1 of Schedule 3 to the 2016 Act have been established.
- 14.2. The tribunal is satisfied that it is reasonable to make an order for eviction.

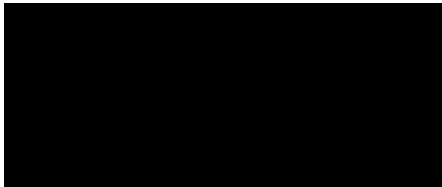
#### **Discussion**

15. The order for eviction is sought in terms of Section 51 and paragraph 1 of Schedule 3 to the 2016 Act. The tribunal was satisfied that the requirements of those provisions have been met.

16. In relation to reasonableness, reference is made to the tribunal's findings in fact. The tribunal was satisfied that it was reasonable to evict the Respondents in the circumstances of the case. However, given the fact that the family's needs include a child with a disability, the tribunal decided that it was reasonable to postpone the date for enforcement of the order to 30 April 2025, to allow sufficient time for the local authority to arrange suitable housing for the family.

### **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.**



**7 March 2025**

**Ms. Susanne L. M. Tanner K.C.**  
**Legal Member/Chair**