



**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/19/3330**

**Re: Property at Flat 1-2, 218 Rotherwood Avenue, Glasgow, G13 2AZ (“the Property”)**

**Parties:**

**Mr Richard Reid, Mrs Yvonne Reid, The Manse, Foveran, Ellon, Aberdeenshire, AB41 6AP (“the Applicant”)**

**Ms Jovita Chinyere Adegun, Flat 1-2, 218 Rotherwood Avenue, Glasgow, G13 2AZ (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.**

**Background**

By application, received by the Tribunal on 16 October 2019, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 1 of Schedule 3 to the 2016 Act.

The application was accompanied by a copy of a Notice to Leave dated 6 February 2019, advising the Respondent that the Applicant intended to sell the Property and that an application to the Tribunal for an Eviction Order would not be made before 31 May 2019. The Applicant also provided the Tribunal with a copy of an e-mail from Portolio Limited to the Respondent’s representatives, Shelter Scotland requesting access for the purpose of preparing a Home Report and marketing photographs. The e-mail stated that Portolio Limited are estate agents who specialise in selling tenanted properties.

On 14 November 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 5 December 2019.

On 4 December 2019, the Respondent submitted written representations to the Tribunal. She set out her family circumstances, namely that she had a 5 year old daughter. She provided a letter from Shelter Scotland dated 15 November 2019 which expressed their concern that the Respondent might be rendered homeless over the Christmas and New Year period, when support systems would be very limited. The Respondent also made reference to repairs issues with the Property and, in particular, the central heating boiler. The papers submitted by the Respondent also indicated that she had been trying, with the assistance of Shelter Scotland, to secure alternative accommodation.

### **Case Management Discussion**

A Case Management Discussion was held at Glasgow Tribunals Centre on the morning of 16 December 2019. The Applicant was represented by Michelle O'Donnell and Colin Macmillan of the Applicant's letting agents, Glasgow Property Letting Limited. The Respondent was present.

The Applicant's representatives told the Tribunal that the Respondent, Reverend Reid, was a church minister. He had recently retired, so had had to vacate the manse that had been provided for him and required to sell the Property in order to fund the purchase of a house for retirement. The Respondent had been unable to procure a Home Report, as the Respondent had not been prepared to allow access for photographs to be taken and particulars prepared. The Respondent told the Tribunal that a representative from Portolio Limited had already visited the Property, but she had been assured only one visit was necessary and she had been unwilling to allow someone in to take photographs, as the Property had been let unfurnished and her and her daughter's possessions would appear in any photographs. She also told the Tribunal that she did not wish to live in the Property any longer, but had nowhere to go. She was very concerned at the impact an Eviction Order would have on her daughter, particularly at this time of year.

The Applicant's representatives pointed out that this matter had been ongoing since February. The Applicant had not wanted to pressurise the Respondent, but many months had passed and the Applicant needed the Property back in order to sell it and purchase a house purchase. The Applicant's agents had offered alternative flats and had also been in touch with Shelter. The Applicant would not have sought to enforce an Eviction Order during the Christmas period.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations states that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would determine the application without a Hearing.

Section 51 of the 2016 Act provides that the Tribunal is to issue an Eviction Order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 to the 2016 Act applies. Ground 1 of Schedule 3 to the 2016 Act states that it is an Eviction Ground that the landlord intends to sell the Property and that the Tribunal must find that Ground 1 applies if the landlord is entitled to sell the Property and intends to sell

it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it. Evidence tending to show that the landlord intends to sell includes (for example) a recently prepared Home Report.

The Tribunal was satisfied that the Applicant was entitled to sell the Property and, on the balance of probabilities, that a Home Report would have been obtained had Respondent granted access for the purpose and that the Applicant intended to sell the Property to provide the funds for the purchase of a house following Reverend Reid's retiral, when the Applicant lost the right to occupy the church manse in Inverness.

The Tribunal appreciated the efforts that the Respondent was making to find alternative accommodation and just how difficult that was proving to be, but was satisfied that the requirements of Ground 1 had been met. Accordingly, the Tribunal was bound to issue an Eviction Order, but reassured the Respondent that it could not be enforced over the Christmas and New Year period, due to the period for an appeal on a point of law that the Tribunal was bound to observe.

### **Decision**

The Tribunal determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.

### **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.**

George Clark

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**Legal Member/Chair**

16 December 2019

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**Date**