



**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/22/2971**

**Re: Property at 1 Prestwick Place, Newton Mearns, G77 5AY (“the Property”)**

**Parties:**

**Glasgow Renovation Homes LLP, C/O Hkip LLP Mercantile Buildings, Suite 10, 53 Bothwell Street, Glasgow, G2 6TS (“the Applicant”)**

**Mrs S Yousaf, Mr Moeen Masood, 1 Prestwick Place, Newton Mearns, G77 5AY (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Eileen Shand (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant but that the Order is not to be enforced before 31<sup>st</sup> March 2022.**

**Background**

1. An application was received by the Housing and Property Chamber dated 18<sup>th</sup> August 2022. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 2 of the Private Housing (Tenancies) Act 2016.
2. On 4<sup>th</sup> November 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 8<sup>th</sup> December 2022 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 25<sup>th</sup> November 2022.

3. On 8<sup>th</sup> November 2022, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondents. Mrs Yousaf was served personally and accepted service on behalf of Mr Masood.. This was evidenced by Certificates of Intimation dated 8<sup>th</sup> November 2022.

#### The Case Management Discussion

4. A CMD was held on 8<sup>th</sup> December 2022 at 2pm by teleconferencing. The Applicant was not present but was represented by Mr Regan Wallace, Solicitor, BTO Solicitors. The First Named Respondent, Mrs Yousef, was not present. The Second Named Respondent, Mr Masood, was present.
5. Mr Wallace told the Tribunal that the Applicant's position was still as per the application. This is namely that an order for eviction was being sought. He referred to the documentation that was lodged with the application.
6. Mr Masood said that he was not in a position to object to the granting of an order. He has been looking for alternative accommodation. He has been in contact with local housing associations and his local authority. He is on his local authority priority list. He said that there is a high demand for private sector housing with 20 – 30 people applying for each property. Further he said that it has become very expensive and he cannot afford to rent in the private sector. He noted that he needs to stay in the local area as his children are at primary school and nursery in the local area. His children are aged 9, 6 and 3. His school aged children are in Primary 6 and Primary 3.
7. Mr Wallace said that it is the Applicant's right to ask for his property to be returned to him to allow it to be renovated. Mr Wallace was assuming that the new Cost of Living (Tenant Protection)(Scotland) Act 2022 was to be applied to this case with any order not being sent out prior to 31<sup>st</sup> March 2022. The Tribunal noted that this application was not caught by the new Act and sought clarification on the Applicant's view of not enforcing an order before 31<sup>st</sup> March 2023. Mr Wallace sought a brief adjournment to seek clarification with the Applicant. On returning to the CMD he confirmed that the Applicant would not look to enforce an order before 31<sup>st</sup> March 2023.
8. The Tribunal considered that there were not any issues of reasonableness before them. The Respondents were served with a Notice to Leave on 15<sup>th</sup> January 2022. An order will not be enforced until 31<sup>st</sup> March 2023. This will allow the Respondents the opportunity to source alternative accommodation. The Respondents are not objecting to the granting of an order.

#### Findings and reason for decision

9. A Private Rented Tenancy Agreement commenced 4<sup>th</sup> September 2018.

10. Works are required to be undertaken to the Property that cannot be done with the Respondents still living in the Property. Confirmation and permission for such works had been lodged with the application.
11. The Applicant does not have any other properties that the Respondents can live in during the time that the building works are being undertaken.
12. The Applicant was minded that any order granted would not be able to be enforced until 31<sup>st</sup> March 2023.
13. The Respondents are not in a position to dispute an order being granted.
14. The Respondents are on the priority housing list for their local authority.
15. There are no issues of reasonableness preventing an order being granted.

### Decision

16. The Tribunal found that ground 2 has been established and granted an order in favour of the Applicant. This order is not to be enforced before 31<sup>st</sup> March 2023.

### **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.**

# G Miller

**8<sup>th</sup> December 2022**

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**Legal Member/Chair**

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**Date**