

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/22/0610**

**Re: Property at 45 Hollows Crescent, Paisley, PA2 0BB (“the Property”)**

**Parties:**

**Ms Lorna McLelland, Balvonie House, Halketburn Road, Skelmorlie, PA17 5BP (“the Applicant”)**

**Ms LesleyAnne Warren, 45 Hollows Cres, Paisley, PA2 0BB (“the Respondent”)**

**Tribunal Members:**

**Andrew Upton (Legal Member) and Elizabeth Currie (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted under Ground 1 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016, and that the Private Residential Tenancy ended on 15 August 2022**

**STATEMENT OF REASONS**

1. This Application called for its Case Management Discussion by teleconference call on 15 August 2022. The Applicant was represented by Mrs Janette McLelland. The Respondent was neither present nor represented.
2. In this Application the Applicant seeks an eviction order. She says that she is the landlord, and the Respondent the tenant, of the Property under and in terms of a Private Residential Tenancy. She says that she intends to sell the property. In support of that, the Applicant has produced a letter from Cochran Dickie, Estate Agents, confirming that they have instructions to sell the Property, amongst others. The Applicant has given the Respondent a Notice to Leave on the required period of notice specifying that she intends to sell the

property and therefore relies on Ground 1 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”).

3. The Respondent did not lodge any representations prior to the CMD. She received notice of the CMD. She has been afforded an opportunity to appear at the CMD in order to oppose the order sought and dispute the contents of the Application. She has chosen not to do so. The Tribunal was therefore satisfied that the contents of the Application were not in dispute.
4. At the CMD, the Applicant’s Representative explained that the Applicant is in the process of selling her whole property portfolio. We were told that the mortgage lending over the properties in the portfolio (including the Property) were coming to an end of their term, but that the Applicant was unable to renew those mortgages or obtain alternative lending. For that reason, the Applicant was selling her portfolio. The Applicant’s Representative confirmed that the Property had not been adapted for the Respondent. The Applicant’s Representative spoke positively of the Respondent. She confirmed that there were no rent arrears. She spoke of the Property being in need of some repair, but did not suggest that the disrepair was in any way exceptional. The Applicant’s Representative had spoken to the Respondent and understood her to be willing to remove from the Property but unable to do so voluntarily as to do so would detrimentally affect her application for housing to the local authority. Instead, the Respondent required a grant of an eviction order so as not to be disadvantaged. In fact, the Applicant’s Representative believed that the Respondent had already moved out of the Property and was living temporarily with her daughter, but had refused to hand back the keys for the foregoing reasons.
5. In terms of Rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), the Tribunal may do anything at a CMD that it may do at a Hearing, including make a decision. In terms of Rule 2, when making a decision the Tribunal must have regard to the overriding objective to deal with proceedings justly, including the need to avoid unnecessary delay.
6. In terms of the 2016 Act:-

*“Section 51 First-tier Tribunal's power to issue an eviction order*

- (1) The First-tier 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 applies.
- (2) The provisions of schedule 3 stating the circumstances in which the Tribunal may find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.

- (3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.
- (4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

*Schedule 3, Ground 1 Landlord intends to sell*

- (1) It is an eviction ground that the landlord intends to sell the let property.
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—
  - (a) is entitled to sell the let property,
  - (b) 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, and
  - (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.
- (3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—
  - (a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,
  - (b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.”

- 7. Having considered the Application and considered both the Applicant’s Representatives submissions and the lack of response from the Respondent, the Tribunal is satisfied that it is able to make a Decision at the CMD without a Hearing. In all of the circumstances, the Tribunal is satisfied both that the Applicant is entitled and intends to sell the Property, and that it is reasonable to grant an eviction order. The Tribunal will therefore grant an eviction order under Ground 1.
- 8. For the purposes of section 51(4), the Tribunal determined that the Private Residential Tenancy between the parties terminated on 15 August 2022.

## **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.

# A Upton

15/08/2022

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Legal Member/Chair

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Date