



**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/21/0718**

**Re: Property at 11 Winton Place, Irvine, KA12 0SN (“the Property”)**

**Parties:**

**Mr Davinder Singh Summel, 10 Peirsland Place, Irvine, KA11 1QF (“the Applicant”)**

**Laura Tennant, 11 Winton Place, Irvine, KA12 0SN (“the Respondent”)**

**Tribunal Members:**

**Jim Bauld (Legal Member) and Helen Barclay (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted**

**Background**

1. By application dated 22 March 2021, the applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. In this application the order sought was based on ground 4 of schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016, namely that the applicant intended to live in the property

2. On 19 April 2021 the application was accepted by the tribunal and referred for determination by the tribunal.
3. A Case Management Discussion (CMD) was set to take place on 26 February 2021 and appropriate intimation of that hearing was given to both parties

### **The Case Management Discussion**

4. The Case Management Discussion (CMD) took place on 28 May 2021 via telephone case conference. The applicant took part in the telephone case conference and was represented by his solicitor, Ms Shannon Gaughan from Clarity Simplicity Ltd, 34 Woodlands Road Glasgow. The respondent also took part in the case conference
5. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters

### **Findings in Fact**

6. The Applicant and Respondent as respectively the landlord and tenant entered into a tenancy of the property which commenced on 1 October 2019
7. The tenancy was a private residential tenancy in terms of the 2016 Act
8. The agreed monthly rental was £600
9. The property is currently occupied by the respondent and her child who is aged one year.
10. On 18 December 2020 the applicant served upon the tenant a Notice to Leave as required by the 2016 Act. The Notice was served by recorded delivery mail upon the respondent and became effective on 21 March 2021
11. The notice informed the respondent that the landlord wished to seek recovery of possession using the provisions of the 2016 Act
12. The notice was correctly drafted and gave appropriate periods of notice as required by law.

13. The notice set out a ground contained within schedule 3 of the Act, namely ground 4 that the landlord intended to live in the let property.

### **Reasons for Decision**

14. The order for possession was sought by the landlord based on a ground specified in the Act and properly narrated in the notice served upon the tenant.

15. The tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon that ground

16. When the application was lodged, an affidavit dated 11 March 2021 was provided which had been prepared and signed by the applicant. In that affidavit he indicated that he was the owner of the property and that it was currently let in terms of a private residential tenancy. He indicated he wished to bring the tenancy to an end because he intended to live in the property as his principal home along with his girlfriend

17. The landlord confirmed the position as set out in the affidavit during the CMD. He had bought the property in 2019. At that time he was living with his grandmother and acting as her full time carer. The family situation has now changed. His grandmother is now being provided with care from other sources. He wished to move out of his grandmother's home and set up in his own home with his girlfriend. He cannot purchase another property in the area. Living in the property would also allow him to be closer to his place of work

18. The respondent acknowledged that she had been aware of the landlord's intentions for several months. a previous notice to leave had been served in July 2020. she has approached the local council who have indicated to her that she will be allocated an alternative property only if there is an eviction order granted against her. In the absence of such an order she will not be allocated any housing via this route. She is happy to allow the order to be granted and understands why her landlord wishes to move into the property. She stated that she "does not wish to overstay her welcome"

19. The ground for eviction was accordingly established

20. The ground for eviction under which this application was made is the ground contained in paragraph 4 of schedule 3 of the 2016 Act. The ground is that the landlord intends to live in the let property. When the 2016 Act was originally passed, that ground of eviction was mandatory. The tribunal was required by law to grant the eviction order if satisfied that the ground was established.

21. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on this ground can only be granted if the Tribunal

is satisfied that it is reasonable to issue an eviction order on account of that fact

22. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties
23. In this case the tribunal finds that it is reasonable to grant the order. The tribunal accepts the landlord's intention is genuine and the respondent is confident that the order will not mean that she will become homeless. She is willing to vacate the property. In all the circumstances it is reasonable to grant the order.
24. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

### **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.**



**Jim Bauld**

**28 May 2021**

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**Legal Member**

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**Date**