



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016**

Reference number: FTS/HPC/EV/21/1357

Order granted on 16 September 2021 in absence of the Respondents

Property: The Manse, Athelstaneford, East Lothian EH39 5BE

Parties:

The Church of Scotland General Trustees, 121 George Street, Edinburgh, EH2 4YR ("the Applicant")

Michael Stanislaw Struzykowski and Katarzyna Jolanta Struzykowski, residing at The Manse, Athelstaneford, East Lothian EH39 5BE ("the Respondents")

**Tribunal Members:**

**Paul Doyle (Legal Member)**

**Mary Lyden (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1 of part 1 of schedule 3 to the 2016 Act.**

**Background**

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to leave, served on 11 September 2020, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

## **Case Management Discussion**

A case management discussion took place by telephone conference at 11.30am on 16 September 2021. The Applicant was represented by Ms S Killean, solicitor. The hearing was delayed to allow sufficient time for the respondents to participate, but there was no appearance by or on behalf of either Respondent.

## **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a private residential tenancy Agreement for the Property dated 12 and 15 March both 2019.
2. The rent in terms of the Tenancy Agreement was £1500 per month.
3. On 18 May 2021 the applicant authorised the sale of the property and instructed their own law department to make preparations to market the property for sale.
4. On 11 September 2020 the applicant served a notice to leave on the respondents in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 21 May 2021, the applicant submitted an application to the tribunal.
5. The Applicant seeks recovery of possession of the Property in terms Ground 1 of part 1 of schedule 3 to the 2016 Act. The applicant
  - (a) is entitled to sell the let property,
  - (b) intends to sell the property for market value 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.
6. The respondent offers no resistance to this application. Sheriff Officers served notice of this hearing on each respondent on 13 August 2021.
7. It is not argued that it is unreasonable to grant an order for repossession of the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

## **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms Ground 1 of part 1 of schedule 3 to the 2016 Act is

established. Neither respondent offers any defence to the application. For these reasons, the Tribunal determined to grant an Order for possession.

### **Decision**

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1 of part 1 of schedule 3 to the 2016 Act.

### **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.**

**Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

Legal Member

Date: 16/09/2021

**P Doyle**