



**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**

**Chamber Ref: FTS/HPC/EV/21/1478**

**Re: Property at 21 Happyhillock Road, Dundee, DD4 8NG (“the Property”)**

**Parties:**

**Mr Graeme Squire, Mrs Sandra Squire, 4 Linfield Place, Dundee, DD4 8LG (“the Applicants”)**

**Ms Leighann Glen, 21 Happyhillock Road, Dundee, DD4 8NG (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Mr A Lamont (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order in respect of the Property should be granted against the Respondent.**

**Background**

1. This is an application received in the period from 18<sup>th</sup> June to 13<sup>th</sup> July 2021 and made in terms of Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”) seeking an eviction order under ground 1 of the Private Rented Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The Applicants’ representative included with the application a copy of the tenancy agreement between the parties, which tenancy commenced on 22<sup>nd</sup> April 2019, copy Notice to Leave served by personal and recorded delivery on 11<sup>th</sup> December 2021, copy section 11 Notice to the Local Authority served on 17<sup>th</sup> June 2021, copy letter to the Respondent date 9<sup>th</sup> December 2020 and copy terms of engagement letter dated 2<sup>nd</sup> December 2020.

## Case Management Discussion

2. A Case Management Discussion (“CMD”) took place by telephone conference on 6<sup>th</sup> September 2021. The Applicants were not in attendance and were represented by Mr A Campbell, Solicitor. The Respondent was in attendance. Her husband, Mr Wayne Glen, was also present as a supporter.
3. Mr Campbell moved for the eviction order to be granted. He has been instructed by the Applicants to market the Property for sale. Notice to leave has been served on the Respondent and the local authority has been informed. Terms of engagement are in place between the Applicants and their representative. Vacant possession is required to market the Property.
4. The Respondent said she was aggrieved that the Property was in disrepair, and it was only after asking for repairs to be carried out that notice to leave was served. The Respondent said she did not challenge the notice to leave or that it had been served. She had no reason to believe that the Applicants were not intending to sell the Property.
5. The Respondent said she has three children aged 11, 14 and 16. Two of the children have support needs. Responding to the Tribunal as to whether she had taken advice on her housing situation, the Respondent said she had taken advice from Shelter Scotland and been told there were errors in the notice to leave. She was unable to direct the Tribunal to any error in the notice to leave.
6. The Respondent said she has contacted the private sector team to discuss the state of repair of the Property. She has been told by the local authority that they can do nothing about housing her until they know the outcome of this case. She has been on the local authority housing list for 10 years. The local authority are aware of her family circumstances. She requires a four bedroomed house and has said she will accept most areas in the city. She has been told there are 15 to 17 people in front of her on the list, and that only one to two houses are being allocated each year. She would not wish to rent privately again.
7. Mr Campbell said that the Applicants had satisfied the reasonableness test and it was reasonable to grant the order. If it was not granted, the sale would be prevented. If an order was granted, the Respondent could take it to the local authority and they would have a legal responsibility to deal with her under homelessness legislation. Her points would increase at that stage.
8. The Tribunal adjourned to consider the case.
9. Upon reconvening, the Tribunal informed parties that it was persuaded that Ground 1 was met and that it would be reasonable to grant the order, however, it may be persuaded to allow a period of 7 weeks before the order

could be enforced, to allow the local authority time to find suitable accommodation for the Respondent and her family.

10. Mr Campbell opposed any extension to the period before which the order could be enforced, stating that the local authority had had long enough to find accommodation for the Respondent and her family, particularly given that the Respondent has been on the housing list for a considerable period, and the notice period for this application was increased due to the Covid-19 pandemic and associated legislation.
11. The Respondent said she did not believe it would help to have a longer period before which the order could be enforced, as the advice she had been given by the local authority was that they would not consider matters any earlier than four weeks before eviction was scheduled, therefore, there was no point in allowing a longer period.

### **Findings in Fact and Law**

12.
  - (i) The parties entered into a private residential tenancy agreement in respect of the Property commencing on 22<sup>nd</sup> April 2019.
  - (ii) The Applicants intend to sell the Property and to market it for sale within three months of the Respondent ceasing to occupy it.
  - (iii) A valid notice to leave has been served on the Respondent.
  - (iv) It is reasonable in the circumstances to grant an eviction order.

### **Reasons for Decision**

13. Ground 1 of Schedule 3 of the Act provides that it is an eviction ground if the landlord intends to sell the let property. The Tribunal found that this ground was met. The Tribunal then considered reasonableness. The Tribunal took into account the difficult circumstances in which the Respondent finds herself and her family; however, there was no evidence before the Tribunal to the effect that the local authority would not house the Respondent and her family following the granting of an eviction order. The local authority has had a long period of notice regarding the family's circumstances. The local authority has a duty to house the Respondent and her family. The Respondent said she was keen to leave the private rented sector. If the order was not granted, the Applicants would be unable to market the Property for sale indefinitely. In all the circumstances, the Tribunal considered it reasonable to grant the order sought.

## **Decision**

- 14.** An eviction order in respect of the Property is granted against the Respondent. The order is not to be executed prior to 12 noon on 8<sup>th</sup> October 2021.

## **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.**

**Helen Forbes**  
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**Legal Member/Chair**

**6<sup>th</sup> September 2021**  
**Date**