



**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/22/3224**

**Re: Property at 22A Sheephousehill, Fauldhouse, West Lothian, EH47 9DZ (“the Property”)**

**Parties:**

**Mr Robert Gillies, 7/42 Murieston Road, Edinburgh, EH11 2JJ (“the Applicant”)**

**Mr Martin McMillan, Unknown, Unknown (“the Respondent”)**

**Tribunal Members:**

**Nairn Young (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**

- Background

This is an application for an order for eviction of the Respondent who has a private residential tenancy at the Property. It called for a case management discussion (‘CMD’) at 10am on 20 June 2023, by teleconference. The Applicant was on the call in person. The Respondent was not on the call and was not represented. The commencement of the CMD was delayed by 10 minutes to allow for any technical issue he may have been experiencing, but there was no contact from him.

The Respondent did not appear at a previous calling of the case on 7 February 2023. He could not be located at the Property and was notified by advertisement made on 18 May 2023 of this calling.

The Tribunal was satisfied that he did not intend to defend the application and that it was therefore fair to proceed in his absence.

- Findings in Fact

1. The Respondent lets the Property from the Applicant in terms of a private residential tenancy with a start date of 14 February 2021.
2. On 1 September 2022 a notice to leave was served on the Respondent by the Applicant indicating that he intended to apply for an eviction order on Ground 1 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 ('the Act').
3. At some point prior to that, the Respondent ceased residing in the Property.
4. The Applicant is the owner of the Property.
5. The Applicant intends to sell the Property, or at least market it, for full value within 3 months.

- Reasons for Decision

6. The Tribunal was asked to allow this application to be amended to include reference to ground 10 of Schedule 3 to the Act, i.e. that the tenant is not occupying the Property. There was ample evidence presented that the Property is unoccupied and has been for some time. The Tribunal did not consider it was in the interests of justice to insist on a further notice being served to allow the Applicant to rely on this ground, on the basis that it would serve no purpose, given the Respondent cannot be traced. It therefore granted the Applicant's request.

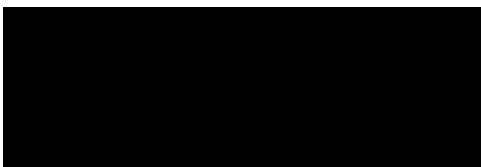
7. The Tribunal therefore found that both grounds 1 and 10 were established. In particular, it is reasonable for an eviction order to be made, on either ground. The Respondent is not occupying the Property, so there can be no suggestion that formal eviction will prejudice him in any way.

- Decision

Eviction order granted.

### **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.**



**Legal Member/Chair**

**20<sup>th</sup> June 2023**

**Date**