



**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/23/1716**

**Re: Property at 2 Wilson Street, Coatbridge, ML5 3QA (“the Property”)**

**Parties:**

**Mr Stephen Cantwell, 55 Meadow Walk, Coatbridge, ML5 3PP (“the Applicant”)**

**Miss Abby Anderson, 2 Wilson Street, Coatbridge, ML5 3QA (“the Respondent”)**

**Tribunal Members:**

**Jan Todd (Legal Member) and Helen Barclay (Ordinary Member)**

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

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

1. This was a Case Management Discussion in respect of an application by the Applicant dated 26<sup>th</sup> May 2023 for an order for eviction against the Respondent. This was the first calling of the case before a Tribunal.
2. The following documents were lodged with the application and afterwards in response to requests from the Tribunal:-
  1. A copy of the Tenancy Agreement dated 3<sup>rd</sup> December 2019
  2. Copy Notice to Leave dated 1<sup>st</sup> March 2023 and evidence of hand delivery.
  3. Copy S 11 Notice to North Lanarkshire Council
  4. Copy e-mail to North Lanarkshire Council dated 26<sup>th</sup> May 2023
  5. Copy written agreement from the applicant giving sole selling rights to hc2m dated 6<sup>th</sup> and 7<sup>th</sup> July 2023.
  6. The Tribunal also had sight of the titles for the Property showing the Applicant as the owner.

## **The Case Management Discussion (CMD)**

3. The CMD proceeded today by way of teleconference. The Convener made introductions, and explained how the CMD would be conducted over the teleconference. The Respondent did not attend and was not represented. Papers and the invitation to dial into the teleconference were served on the Respondents by sheriff officers on 28<sup>th</sup> August 2023 and so the Tribunal was satisfied it was fair and appropriate to proceed in their absence.
4. Mr Stephen O'Hear attended as the Applicant's representative from hc2m properties and advised that he was instructed to seek an order for possession of the Property today.
5. He confirmed the notice to leave had been served on the Respondent and that he has spoken to her since and she is aware of the Applicant's wish and need to sell the Property. He indicated his firm has tried to find her another rental property but there is not much available just now and he is also aware she has spoken to the Council.
- Mr O'Hear confirmed the Applicant is seeking the order in terms of Ground 1 of Schedule 3 of the Act because the applicant wishes to sell the Property as he is struggling financially and also a family member is seriously ill and he wishes to help him. He confirmed the Respondent has one dependent and is not reliant on benefits as she is working.

## **Findings in Fact**

1. The Applicant and the Respondents entered into a lease of the Property with the Respondents which commenced on 16<sup>th</sup> December 2019.
2. The Applicant is the owner of the Property and the Respondent is the tenant.
3. The tenancy is continuing.
4. The Applicant intends to sell the Property.
5. A notice to leave dated 1<sup>st</sup> March 2023 was served on the Respondent by hand delivery stating that no proceedings would be raised before 25<sup>th</sup> May 2023.
6. These proceedings were raised on 26<sup>th</sup> May 2023 and the application included a copy of the Notice to Leave.
7. The application is timeous.
8. A Section 11 notice has been served on North Lanarkshire Council
9. The Tribunal finds it reasonable that an order for eviction is granted for the reasons stated below.

## Reasons for Decision

6. The Tribunal was satisfied that the Respondents had been served with a valid Notice to Leave under S52 (3) of the 2016 Act specifying Ground 1 Schedule 3 of the Act as the relevant grounds of eviction.
7. The Tribunal heard that the Notice to Leave was served by hand delivery by Mr O'Hear on the Applicant on 1<sup>st</sup> March 2023. Grounds 1 require 84 days' notice in terms of the Act. The Notice sets out the notice period as expiring on 25<sup>th</sup> May 2023 which meets the requirements of Section 62(4) of the Act as that subsection states that the day to be specified in accordance with Subsection 1 (b) is the day falling after the day on which the notice period defined in section 54(2) will expire.
8. The Application was lodged on 26<sup>th</sup> May 2023. It was therefore lodged after the expiry of the Notice period and before the end of 6 months after the specified date and is therefore an application that the Tribunal can consider.
9. A Section 11 notice accompanied the application and was served on North Lanarkshire Council on 26<sup>th</sup> May 2023.
10. Ground 1 of Schedule 3 of the Act is entitled "Landlord intends to sell" and states
  - i. "It is an eviction ground that the landlord intends to sell the let property.
  - ii. The First Tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord-
    - a. Is entitled to sell the Property and
    - 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.
11. 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
  - c. *And it is reasonable to do so*
12. The Tribunal accepted the verbal averments of Mr O'Hear that the Applicant's intention is to sell the Property. This is supported and evidenced by the written letter of engagement with hc2m to give them sole selling rights for the Property.
13. The Tribunal then had to consider if it accepts it would be reasonable to grant an action for eviction on this ground. The Tribunal heard from Mr O'Hear that that the Applicant is struggling financially and has a family member who is ill and that he wishes to help.

14. There has been no written representations made by the Respondent and she has not attended today's hearing although intimation of this has been made on her by sheriff officer. Considering the landlord wishes to sell the property to release money to alleviate financial difficulties and assist a family member who is ill the Tribunal was satisfied that it was reasonable for an order of possession to be granted on the ground the landlord intends to sell the Property.
15. The Tribunal is therefore satisfied in terms of S 51 (1) of the Act that the eviction ground specified in the application namely Ground 1 is met, and that it is reasonable for the Tribunal to grant the application.

### **Decision**

The Tribunal determined that the order for eviction sought by the Applicant should be 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**

**6<sup>th</sup> October 2023**

**Date**