



**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/22/0989**

**Re: Property at 5 Ramsay Crescent, Bathgate, West Lothian, EH48 1DD (“the Property”)**

**Parties:**

**Mr Adrian Kay, 54 Chuckethall Road, Deans, Livingston, West Lothian, EH54 8FB (“the Applicant”)**

**Ms Grazyna Jablonska, 5 Ramsay Crescent, Bathgate, West Lothian, EH48 1DD (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Mrs M Lyden (Ordinary Member)**

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

**Background**

1. This is an application received in the period between 4<sup>th</sup> April and 3<sup>rd</sup> June 2022 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’). The Applicant is the landlord of the Property, and the Respondent is the tenant, in terms of a private residential tenancy agreement that commenced on 27<sup>th</sup> April 2021. The Applicant is seeking an eviction order under ground 1.
2. The Applicant’s representative lodged a copy of the tenancy agreement dated 27 April 2021, a copy Notice to Leave dated 10<sup>th</sup> September 2021 stating that an application for an eviction order would not be submitted before 16 March 2022, with evidence of service, a copy section 11 notice with evidence of service, and correspondence from an estate agency.

**The Case Management Discussion**

3. A Case Management Discussion took place by telephone conference on 6<sup>th</sup> October 2022. The Applicant was in attendance with his representative, Ms

Hepworth. The Respondent was in attendance with her Supporter, Ms Piotrowicz. A Polish interpreter, Mr Jankiewicz was also in attendance.

### **The Applicant's position**

4. The Applicant wishes to sell the Property. He is a professional landlord and is selling his portfolio of properties. He will refurbish and sell the Property when he has vacant possession. He did not expect to be selling the Property at the time of entering into the tenancy agreement. He has been working with the estate agency since the summer of 2020 with a view to selling his properties.

### **The Respondent's position**

5. Initially, the Respondent indicated through the interpreter that she was opposed to the order being granted. She has medical conditions that are making life difficult. She has just reached retirement age and her benefits have ceased. She is now taking advice on her pension rights. Although she is in employment, she is not getting any work at present. She is borrowing money from friends and family to pay the rent, which is paid up to date. She lives alone.
6. Responding to questions from the Tribunal, the Respondent said she has been in touch with the local authority regarding social housing but nothing is happening. She was last in touch with them two months ago and has had no response.
7. The Respondent said she does not want to stay in the Property. There are issues with fungus and she has lung problems. She would like a smaller property without any issues.
8. Following further discussion, the Respondent indicated that she was not opposed to the order being granted as it would be beneficial to her to move to another property. Her issue appeared to be with the local authority and she was concerned they would not do anything to help her. The Respondent said she is quite high on the list for housing and has a large number of points. She wished the Tribunal to contact the local authority to seek help for her. The Tribunal indicated this was not possible. At this stage, the Applicant indicated that the local authority position appeared to be to allow matters to proceed to a tribunal before offering assistance in eviction cases.
9. Responding to questions from the Tribunal, the Respondent said she has been living in the UK for 12 years and has daughters in the local area. They have their own lives and some difficult living circumstances. She is assisted by her Supporter.
10. The Respondent said she accepted she had been given proper notice and had been kept informed by the Applicant of his plans.

## **Findings in Fact and Law**

11.
  - (i) The parties entered into a private residential tenancy agreement in respect of the Property commencing on 27<sup>th</sup> April 2021.
  - (ii) Notice to Leave has been served upon the Respondent.
  - (iii) The Applicant is entitled to sell the Property.
  - (iv) The Applicant intends to sell the Property for market value or at least put it up for sale within three months of the Respondent ceasing to occupy the Property.
  - (v) It is reasonable to grant an eviction order.

## **Reasons for Decision**

12. 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 may find the ground met if the Landlord is entitled to sell the Property and intends to do so for market value, or at least put it up for sale within three months of the Respondent ceasing to occupy it.
13. The Tribunal is satisfied that the necessary Notice to Leave has been correctly issued to the Respondent in terms of the Act.
14. The Tribunal is satisfied that Ground 1 has been established.
15. In considering whether it was reasonable to grant the eviction order, the Tribunal took into account the Respondent's desire to leave the Property and to be provided with social housing. The Tribunal took into account that the Respondent was not opposing the order.
16. The Tribunal considered it reasonable to grant the order sought.

## **Decision**

17. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 10<sup>th</sup> November 2022.

## **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> October 2022**  
**Date**