



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/25/2574

Re: Property at 15 Canal Street, Saltcoats, Ayrshire, KA21 5HY (“the Property”)

Parties:

Karen Cassidy, Michael Cassidy, 39 Irvine Road, Kilmarnock, KA1 2JN (“the Applicants”)

Gail Queen, Sarah Queen, 15 Canal Street, Saltcoats, KA21 5HY (“the Respondents”)

Tribunal Members:

Joel Conn (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. This is an application by the Applicants for an eviction order in regard to a Private Residential Tenancy (“PRT”) in terms of rule 109 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”). The PRT in question was said to be by the Applicants to the Respondents commencing on 1 July 2020 but the Applicants no longer retained a copy.
2. The application was dated 10 June 2025 and lodged with the Tribunal on 12 June 2025. An amended application (post-dated to 10 June 2025) was lodged with the Tribunal on or about 12 August 2025 and it was this amended application which was advanced.
3. The amended application relied upon a Notice to Leave in terms of section 50 of the *Private Housing (Tenancies) (Scotland) Act 2016* dated 15 January 2025 and

served upon the Respondents by Sheriff Officer service on 20 January 2025. The Notice relied upon ground 1 of Schedule 3 Part 1 of the 2016 Act, being that the “Landlord intends to sell”. The body of the notice made reference to “severe financial hardship” and stated that “Estate Agents have already been instructed” but that the instruction was on hold pending vacant possession. The Notice to Leave intimated that an application to the Tribunal would not be made before 24 April 2025.

4. We would note that the Notice also relied on ground 12 (rent arrears), as did the amended application. The Respondents’ submissions (referred to below) objected to the allegation that there were rent arrears, and ground 12 was not insisted upon at the case management discussion (“CMD”). We thus do not detail the elements of the application, and Respondents’ submissions, dealing with rent arrears any further (and make no determination on the issue).
5. The application papers included a number of items related to the intention to sell:
 - a. Evidence of the Property being marked with Purple Bricks since 25 February 2022 but then withdrawn from market;
 - b. A Home Report from 28 October 2019 (so predating the Tenancy) but showing that the Purple Bricks marketing was commensurate with that valuation; and
 - c. A letter from the Applicants’ agents, Sprang Terras, dated 10 September 2024 with terms of engagement for the sale of the Property.
6. Evidence of a section 11 notice in terms of the *Homelessness Etc. (Scotland) Act 2003* served upon North Ayrshire Council on 29 May 2025 was included in the application papers.
7. In advance of the CMD, the Respondents’ agents provided written submissions and further documentation, including evidence of intimation upon them as Occupiers of a Calling Up notice by the Applicants’ mortgage lenders. The submissions said that the Respondents consented to eviction, provided that the order was suspended for two months to allow a time for rehousing by the local authority.

The Hearing

8. The matter called for a CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 27 February 2026 at 14:00. We were addressed by Euan Terras, solicitor, Sprang Terras, and by Andrea Gibson, Advice and Information Manager, CHAP for the Respondents. She was accompanied by the second named Respondent, Sarah Queen though Ms Gibson provided all submissions.
9. In regard to the Applicants, the agent confirmed that eviction was still insisted upon but that he was satisfied for it to be restricted to ground 1. The reason for seeking to sell was still related to financial hardship and he conceded that the Applicants had indeed received Calling Up notices from their mortgage lender.

10. In regard to the Respondents, their agent confirmed that they did not oppose the application but on the condition that there was a suspension for two months. She submitted that the Respondents had been willing to leave since the first Notice to Leave was issued (around two years ago, which notice was no longer relied upon) but that they would not be rehoused without an order for eviction against them. She expressly confirmed that she did not take issue with the competency of the Notice to Leave in regard to ground 1 nor the Applicants' reasons for wishing to sell. She confirmed that the Respondents were actively seeking rehousing into social housing and were happy to leave the Property as they regarded there to be issues with the state of repair of the Property.
11. We appreciated the Respondents' candour and clarified that they understood that by consenting to eviction, then eviction may be sought in two months without any guarantee of what rehousing they may be offered. Their agent confirmed this was understood.
12. We noted that the Respondents' written submissions disputed some elements of the Tenancy terms in the Applicants' written submissions (as to the rent stated in the missing agreement, and whether it was in the name of both Applicants). No issue was made of this by the parties at the CMD, and we did not regard it as relevant to our determination if limited to ground 1. Specifically, on the issue of whether or not both Applicants were named on the Tenancy Agreement, we noted the Respondents did not dispute that the Applicants both owned the Property.
13. No motion for expenses was made by either party.

Findings in Fact

14. On 1 July 2020, the Applicants let the Property to the Respondents under a Private Residential Tenancy with commencement on 1 July 2020 ("the Tenancy").
15. On or about 15 January 2025, the Applicants' agent drafted a Notice to Leave in correct form addressed to the Respondents, providing the Respondents with notice, amongst other matters, that the Applicants wished to sell the Property.
16. The Notice to Leave provided the Respondents with notice that no application would be raised before the Tribunal prior to 24 April 2025.
17. A copy of the Notice to Leave was served on the Respondents by Sheriff Officer on 20 January 2025.
18. The Applicants raised proceedings for an order for eviction with the Tribunal, under Rule 109, relying on ground 1 of Schedule 3 Part 1 of the 2016 Act, on 12 June 2025.
19. A section 11 notice in the required terms of the *Homelessness Etc. (Scotland) Act 2003* was served upon North Ayrshire Council on 29 May 2025.

20. The Applicants registered the Property on the Purple Bricks estate agency website but have currently withdrawn it from the market pending vacant possession being obtained.
21. On or about 10 September 2024, the Applicants instructed Sprang Terras to act for them in the sale of the Property.
22. The Applicants wish to sell the Property with vacant possession in early course due to financial hardship, in particular the need to address secured lending.
23. The Applicants' secured lender has commenced steps towards repossession of the Property.
24. The Respondents have made active attempts to obtain social housing. They anticipate being rehoused but that this will not occur prior to an order for eviction being granted against them.

Reasons for Decision

25. The application was in terms of rule 109, being an order for eviction of a PRT. We were satisfied on the basis of the application and supporting papers that the Notice to Leave had been competently drafted and served upon the Respondents.
26. Ground 1 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:
 - (1) *...the landlord intends to sell the let property.*
 - (2) *The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—*
 - (a) *is entitled to sell the let property,*
 - (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, and*
 - (c) *the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.*
 - (3) *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.*
27. The letter from Sprang Terras and the print-out of the Purple Bricks marketing constitutes evidence under paragraph (3) and it was augmented by the Applicants' explanations as to why they wished to sell. We thus accept that paragraphs (2)(a) and (b) were satisfied. In any event, the Respondents did not dispute that the material requirements of ground 1 were satisfied.

28. We therefore considered whether it was reasonable to issue an eviction order under paragraph (2)(c). We accepted the Applicants' reasons for wishing to sell, and these were not disputed by the Respondents. We were obliged to both parties for their candour and the engagement with each other at the CMD on whether an order subject to a suspension should be granted. In light of the submissions, we held that it was reasonable to grant an order for eviction at the CMD, with a two-month suspension.
29. The Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. On the basis of the information held, we are thus satisfied to grant an order for eviction at this time but with the earliest date of eviction suspended until 12 noon on 28 April 2026.

Decision

30. In all the circumstances, we grant an order against the Respondents for eviction from the Property under section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* further to ground 1 of Schedule 3 of that Act, suspended as stated above.

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.

Joel Conn

27 February 2026

Legal Member/Chair

Date