



**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/25/2840**

**Re: Property at 13 New Orchardfield, Edinburgh, EH6 5ET (“the Property”)**

**Parties:**

**Miss Laura Craig, 14 New Orchardfield, Edinburgh, EH6 5ET (“the Applicant”)**

**Miss Dagain Nyan, 13 New Orchardfield, Edinburgh, EH6 5ET (“the Respondent”)**

**Tribunal Members:**

**Melanie Barbour (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 4 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016; but orders that the Order for Eviction cannot be enforced until 29 June 2026.**

**Background**

1. An application had been received under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession under a private residential tenancy by the Applicant against the Respondent for the Property.

2. The application included: -
  - a. Tenancy agreement,
  - b. Notice to leave with evidence of service.
  - c. Section 11 Notice with evidence of service
  
3. The applicant's agent, Mr Stewart from Stewart Property Management Ltd appeared and the respondent's agent Mr Wilson from Chai appeared at the case management discussion on 18 February 2026. Mr Wilson had submitted written representations on behalf of the respondent. Mr Stewart confirmed he had seen these.

#### Discussion

4. Mr Stewart submitted that the application papers before the tribunal were sufficient to support the order being granted. He said that the landlord had recently retired. She wants to move into the property. It has been over a year since she gave the respondent notice to leave. She is keen to make progress. She was concerned that the tenant would stop paying rent. She was entitled to her order. He advised that the applicant lives next door to the property and wants to sell the property she currently lives in. She does not want to be out of pocket in bringing these proceedings. He indicated that she intends to renovate the property when she moves into it, and she may sell it.
  
5. Mr Wilson referred to his written submission. He advised that the respondent does not oppose the order for eviction, but asks the tribunal to extend the period in which the applicant can enforce the order for eviction.
  
6. Mr Wilson advised that the respondent is a lone parent, she had a baby and two school children, 7 and 14 years. She has limited ability to spend time looking for somewhere else to move to. She is also restricted in the amount of rent she can afford to pay. She has taken steps to try to find other accommodation since being given notice to leave. Private lets are generally prohibitively expensive. She cannot afford to pay for private rental properties as

the rents are too high and she is on welfare benefits. She has also not been successful in securing mid-market rentals. She had contacted the local authority. The City of Edinburgh Council is suffering a housing emergency. They will not progress persons with homeless accommodation unless the eviction order is granted. If the Respondent could have additional time before the order can be enforced, then this would give her a chance to be placed in temporary accommodation when she moves out. If she were to move in 30 days, she will be placed in B&B or hotel accommodation first, and then she and her family will be moved again into temporary accommodation when it becomes available. Having some additional time would give her some hope of moving straight into temporary accommodation rather than having to move into a hotel room with her young children. They would find life very difficult in those circumstances.

7. He suggested that there would be no prejudice to the landlord for this period, as rent is getting paid, and there is no urgency in the order being enforced. He did not want to test the patience of the tribunal and sought an additional two months on top of the usual appeal period.
8. While he noted that the tribunal considered seeking further information on the landlord's reasons for eviction, Mr Wilson suggested that it would be better for the respondent if the order was granted, and only then will the local council start to assess her as homeless.
9. Mr Stewart in response, reminded the tribunal that the landlord was looking to move in as soon as possible. He had sympathy for the respondent but his client should be able to recover her property as soon as possible. He advised that there were no current issues with rent. It was up-to-date.

#### Findings in Fact

10. The Tribunal found the following facts established: -

11. There existed a private residential tenancy between the Applicant and the Respondent.
12. The tenant was Dagain Nyan.
13. The landlord was Laura Craig.
14. The property is 13 New Orchard Field, Edinburgh.
15. It commenced on 1 June 2024.
16. A notice to leave was submitted dated 31 January 2025, stating that an application would not be made until 3 May 2025. It sought eviction under ground 4. There was evidence of service.
17. A section 11 notice had been sent to the local authority advising that the landlord was seeking possession of the property. There was evidence of service of that notice.
18. The landlord intended to move back into the property.
19. The respondent did not oppose the application.

#### Reasons for Decision

20. Section 51 of the 2016 Act provides the Tribunal with a power to grant an order for eviction for a private residential tenancy, if it finds that one of the grounds in Schedule 3 of the Act applies.
21. The ground on which the Applicant seeks eviction is,

##### *Landlord intends to live in property*

4 (1) It is an eviction ground that the landlord intends to live in the let property.

(2) The First-tier Tribunal may find that the ground named by subparagraph (1) applies if—

(a) the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months, and

(b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.]

(3) References to the landlord in this paragraph—

(a) in a case where two or more persons jointly are the landlord under a tenancy, are to be read as referring to any one of them,

(b) in a case where the landlord holds the landlord's interest as a trustee under a trust, are to be read as referring to a person who is a beneficiary under the trust.

(4) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the landlord has that intention.

22. The applicant's agent appeared. The respondent agent appeared. The respondent's agent said that he did not oppose the order being granted. The applicant's agent advised that the applicant was keen to move into the property as soon as possible. He advised that she currently resides in the property next door and wants to sell it. On the face of what the applicant said, we are prepared to accept that the landlord wants to live in the property. The other statutory tests are met. As the respondent is not opposing the Order, we are prepared to find it would be reasonable to grant the Order.

23. While we are prepared to grant the order, we have decided to delay the period in which the applicant can enforce it. Our reasons are: We agree with Mr Wilson that there does not appear to be an urgency for the applicant to move into the property. We were told she is currently living in accommodation that she is planning to sell. We presume that it will take a couple of months for any sale to complete. Against that, we accept that the respondent will not be able to secure alternative accommodation for herself and her family easily or quickly. We also accept Mr Wilson's submissions in respect of the merits in delaying enforcement of the order, as this would allow the local authority a realistic opportunity to identify suitable temporary accommodation for the Respondent and her children. Hotel or bed-and-breakfast accommodation is unsuitable for children, and avoiding such accommodation is a relevant consideration in assessing the appropriate period for enforcement.

24. We considered what period would be appropriate. The extension requested would take parties to around the beginning of June; we consider that the period should be further extended until the end of June. This will allow the two older children to complete the remainder of the current school year. One of the children is aged 14, and continuity of their schooling in particular is a relevant consideration. Delaying enforcement of the order until the end of June will reduce the risk of disruption to the children's education.

## Decision

25. The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 4 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016, but orders that the Order cannot be enforced until 29 June 2026.

## **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.**

Melanie Barbour

**2 March 2026**

**Legal Member/Chair**

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**Date**