



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/2265

Re: Property at 25 Hunterson Road, West Kilbride, KA23 9EX (“the Property”)

Parties:

Mrs Yuk Jean Lee, Tin Sang Lee, 17 Castle Drive, Kilmarnock, KA3 1TN (“the Applicant”)

Mr Alan Gilmour, 25 Hunterson Road, West Kilbride, KA23 9EX (“the Respondent”)

Tribunal Members:

Alastair Houston (Legal Member) and David Fotheringham (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be made in terms of paragraph 3 of schedule 3 of the 2016 Act

1. Background

- 1.1 This is an application under rule 109 of the Chamber Rules whereby the Applicant seeks an eviction order on the basis of ground 3 of schedule 3 of the 2016 Act, namely, the Applicant intends to refurbish the property and it would be impracticable to do so with the tenant occupying the property. The application was accompanied by copies of the written tenancy agreement between the parties, the notice to leave given to the tenant and proof of postage and a statement by the Applicant setting out the intended works.
- 1.2 No written representations were lodged by the Respondent in advance of the Case Management Discussion. The Applicant lodged further representations setting out rent arrears owed and correspondence seeking access to the property.

2. The Case Management Discussion

2.1 The Case Management Discussion took place on 2 March 2026 by teleconference. The Applicant was represented by Mrs McLemon of BE Listed. The Respondent was represented by Ms Mathieson of Community Housing Advocacy Project.

2.2 The Tribunal heard firstly from Mrs McLemon. She confirmed that the application was insisted upon. The Respondent had obstructed access to the property for the purpose of inspection and repair. The Applicant could not have safety checks carried out. The works required were as detailed in the statement of the Applicant however, it was now believed that a full rewire of the property may not be necessary rather a new electrical box was required. The extent of other works needed were not known given the lack of access. There had been no application to the Tribunal to enforce the right of access but a previous application relating to repairs had been made and disposed of prior to her involvement. The Respondent had resided there since 2016 but parties updated the tenancy agreement in 2024 for reasons not known to her. The Applicant was aware the Respondent and his son both had health conditions and the Respondent was not keen for works to be done whilst he was residing there. There were significant rent arrears but these were not relied upon in respect of the present application.

2.3 Ms Mathieson confirmed that the Respondent accepted he had failed to provide access. He resided with and was full time carer of his 21 year old son who suffered from a developmental disorder and required to use a wheelchair. The proposed electrical works would be too disruptive to them. Due to the breakdown in relationship between the parties, the Respondent no longer wished to reside at the property. An application had been made to the local authority for rehousing and they had accepted a duty to obtain alternative permanent accommodation. Other private sector accommodation was too expensive. The local authority had asked the Respondent to seek a delay in enforcement of any eviction order to allow accommodation suitable for the Respondent and his son to be sourced. Ms Mathieson advised a delay of eight weeks would be appropriate. Essentially, the application was not opposed.

2.4 Mrs McLemon advised that she would have no difficulty with a delay of eight weeks should the eviction order be granted.

3. Reasons For Decision

3.1 The Tribunal had noted that valid notice to leave had been given to the Respondent by the Applicant. The Applicant sought an eviction order on the basis of paragraph 3 of schedule 3 of the 2016 Act. Paragraph 3 is in the following terms:-

3(1)It is an eviction ground that the landlord intends to carry out significantly disruptive works to, or in relation to, the let property.

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

(a) the landlord intends to refurbish the let property (or any premises of which the let property forms part),

(b) the landlord is entitled to do so,...

(c) it would be impracticable for the tenant to continue to occupy the property given the nature of the refurbishment intended by the landlord, and

(d) 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)(a) includes (for example)—

(a) any planning permission which the intended refurbishment would require,

(b) a contract between the landlord and an architect or a builder which concerns the intended refurbishment.

In the present case, although no evidence in the form of planning permission or a contract was lodged, the application was not opposed. Given what was said on behalf of the Applicant, the Tribunal was satisfied that the landlord did have that intention. As proprietor of the property they were entitled to do so. Further, given the Respondent's position regarding the effect of the works on him and his son, it did not appear practicable to carry out the works whilst the Respondent remained in occupation.

- 3.2 The Tribunal thereafter considered it reasonable to issue an eviction order. The application was not opposed. The Respondent had applied for rehousing with the local authority who had assumed a duty to provide permanent accommodation. The Respondent no longer wished to reside at the property. The Tribunal also considered it appropriate to order a delay in enforcement of the eviction order as sought by the Respondent, given the issues they may face in obtaining accommodation suitable for their needs.

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.

A Houston

Legal Member/Chair

2 March 2026
Date