



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/3380

Re: Property at 69 Small Street, Lochgelly, KY5 9AY (“the Property”)

Parties:

Mrs Wilma MacAulay, 28 Aberdour Road, Burntisland, KY3 0EL (“the Applicant”)

Miss Victoria Scott, Mr Douglas Scott, 69 Small Street, Lochgelly, KY5 9AY (“the Respondent”)

Tribunal Members:

Craig Chisholm (Legal Member) and Helen Barclay (Ordinary Member)

Decision

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

Background

1. By application dated 6th August 2025, the applicant sought an order under section 51 of the 2016 Act and in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (procedure) Regulations 2017 (“the procedure rules”). On 11th September 2025 the application was accepted by the tribunal and referred for determination by the tribunal.
2. A Case Management Discussion (CMD) was set to take place on 6th March 2026, and appropriate intimation of that hearing was given to all parties.

The Case Management Discussion

3. The CMD took place on 6th March 2026 *via* telephone conference call. The Applicant and Respondents were personally present.

4. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
5. The tribunal asked various questions of the Applicant and Respondents with regards to the application.
6. The Applicant confirmed she wished for the order for eviction to be made.
7. The Respondent's Miss Scott and Mr Scott (brother and sister) told the Tribunal that the application for eviction was not opposed. They confirmed they understood the reasoning for the Applicant in making the application and were happy to vacate the Property after receiving an eviction order. They advised they had applied to Fife Council to be re-homed, and both indicated they will not be offered alternative accommodation/public housing until the Tribunal issue a decision. They both confirmed the granting of an eviction order against them would assist in them being re-homed. The Respondent's confirmed they are on universal credit and are not working. They live in the Property with their dog.
8. The Applicant confirmed her intention to sell the Property for market value within three months of the Respondent's ceasing to occupy it. The Applicant confirmed the appointment of an estate agent, to market the Property, namely Delmor, once the Respondent's ceased to occupy it. The Applicant told the Tribunal that the Property required some work prior to selling and that would be done prior to it being sold.

Findings in Fact

9. The Applicant is the registered owner of the Property.
10. The Applicant and the Respondent(s) are respectively the landlord and tenants who entered into a Private Residential Tenancy Agreement for the Property commencing 24th May 2019.
11. The Applicant served a Notice to Leave on the Respondent's on 8th May 2024. This was served *via* email and recorded delivery. Both Respondent's acknowledged receiving the Notice to Leave.
12. The Applicant intends to sell the property for market value in order to free up funds for another project and intends to carry out renovation works to this property and to another property owned by her.
13. Both Respondent's do not oppose the application being granted and consider the granting of the application will assist in being re-homed by Local Authority, namely Fife Council.

Reason for Decision

14. The application was submitted with a Notice to Leave dated 8th May 2025 with evidence it was served both by email which establishes it was sent on that same date and also *via* Recorded Delivery on 9th May 2025 by way of a Royal Mail track and trace signature. The Respondent's confirmed having received the Notice to Leave on those dates.
15. The Notice to Leave stated eviction was sought on the basis of ground 1 of Schedule 3 of 2016 Act, namely the landlord intends to sell the Property. The Notice to Leave states the earliest date that an application can be made to the Tribunal was 3rd August 2025.
16. The application to the Tribunal was made after the expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant submitted a copy of the Section 11 Notice issued to the Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
17. Section 51(1) of the 2016 Act states:

“The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.”

18. Ground 1 of Schedule 3 of the 2016 Act states:

“(1)It is an eviction ground that 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.”

19. From the documents submitted in support of the application and the submissions provided by both parties during the CMD, the Tribunal are satisfied the Applicant intends to sell the property form market value within 3 months of the Respondent's seeking to occupy it and that it is reasonable to issue an eviction order in the circumstances.
20. The Tribunal were satisfied the Applicant was the owner of the Property.
21. The Tribunal were satisfied the Applicant intended to sell the Property for market value. Documentation was provided in support of the application that

Delmor, estate agents had been instructed to sell the Property on behalf of the Applicant.

22. The Tribunal considered whether it would be reasonable to grant the order and noted the following:-

- a. The Respondent's did not oppose the application. The Local Authority cannot re-home them until they have been evicted. The granted of the order would assist in this process;
- b. The Respondent's live in the Property only with a pet; and
- c. The Applicant had a genuine intention to sell the Property due to seeking funds to renovate

23. The Tribunal considers the Applicant has complied with the requirements of the 2016 Act and that ground 1 of Schedule 3 of the 2016 Act has been established. For the reasons outlined above, the Tribunal were satisfied it would be reasonable to grant the order for eviction.

Decision

24. The ground for eviction based on rent arrears was accordingly established.

25. The tribunal has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant. This is confirmed by one of the leading English cases, *Cumming v Danson*, [1942 2 All ER 653 at 655, where Lord Green MR said:

“In considering reasonableness... it is, on my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusions given such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account.”

26. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.

27. In this case, the tribunal finds that it is reasonable to grant the order. The balance of reasonableness in this case is weighted towards the landlord in this application for the above noted reasoning.

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.

C Chisholm

06/03/2026

Legal Member/Chair

Date