



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/EV/25/4200**

**Re: Property at 29 Garrier Road, Dreghorn, North Ayrshire, KA11 3AT (“the Property”)**

**Parties:**

**Mrs Susan Alan and Mr Roddie Alan both residing at 4, Islay Court, Dreghorn, KA11 4JQ (“the Applicants”) per their agents, Wallace Hodge, solicitors, 6, Burns Statue Square, Ayr, KA7 1UP (“the Applicants’ Agents”)**

**Miss Kerry-Anne Hay residing at the Property, (“the Respondent”) per her representatives, CHAP, Michael Lynch Centre for Enterprise, 71, Princes Street, Ardrossan KA22 8DG (“the Respondent’s Representatives”)**

**Tribunal Members:**

**Karen Moore (Legal Member) and Melanie Booth (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory process and the Ground for recovery of possession having been established, it is reasonable to grant the Order sought.**

**Background**

1. By application received on 26 September 2025 (“the Application”) the Applicants’ Agents applied on his behalf to the Tribunal for an Order for eviction and possession of the Property based on 1 of Schedule 3 to the 2016 Act.

2. The Application comprised the following:

i) copy Notice to Leave in terms of Ground 1 of Schedule 3 to the Act with proof of issue to the Respondent;

ii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to North Ayrshire Council being the relevant local authority and

iv) evidence of intention to sell as required by the Act.

3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (“CMD”) was fixed for 8 May 2026 at 10.00 by telephone conference and intimated to the Parties. Prior to the CMD, the Respondent’s Representatives advised that the Application is not opposed and asked that the effective date of the Order be stayed for two months.

#### **CMD**

4. The CMD took place on 8 May 2026 at 10.00 by telephone. The Applicants were not present and were represented by Ms. Archibald of the Applicants’ Agents. The Respondent, Miss Hay, was present and was represented by Ms. Tait of the Respondent’s Representatives.

5. Ms. Archibald confirmed that an Order for eviction is sought. Ms. Tait confirmed that the Application is not opposed, subject to the extended effective date.

6. The Tribunal explained that it required to be satisfied that the correct statutory process had been carried out, that the Ground for the Application is evidenced and that it is reasonable to grant the Order.

7. For the Applicants, Ms. Archibald submitted that their intention to sell is based on their need to release capital from the sale of the Property for various family reasons. She explained that the Applicants have been landlords for around twenty-one years

and, until recently, both have been in full time employment. Ms. Archibald explained that Mrs. Alan now works reduced hours to care for her elderly mother, and, explained that Mrs. Alan also supports her brother who is in poor health and resides in Australia, with the support being both financial and travelling to provide care. Further, the Applicants wish to support their adult sons' house purchases. Ms. Archibald stated that a mortgage is secured on the Property at a cost of £411.23 per month and that there are additional running costs. With regard to the rent position, Ms. Archibald stated that the Respondent has accrued arrears of £3,800.00 which have not reduced in spite of the full rent of £475.00 being paid direct by Universal Credit for some months. Accordingly, the Applicants are under increasing financial pressure.

8. Ms. Archibald confirmed that the Applicants do not object to the effective date of the Order being stayed for two months, if payments are made towards the rent arrears.

9. For Miss Hay, the Respondent, Ms. Tait accepted that the Application based on Ground 1 is not opposed but stated that no prior notice had been given in respect of rent arrears.

10. In response to questions from the Tribunal, Miss Hay accepted that she has accrued rent arrears but was unsure of the amount. She stated that an offer of a payment plan was rejected outright as the length of time to clear the arrears would have been around ten years. Miss Hay stated that the monthly rent of £475.00 has been paid direct to the Applicants since January 2026. With regard to her personal circumstances, Miss Hay stated that she has two children aged four years and fourteen years, and, that she is unemployed and in receipt of Universal Credit. She advised that she suffers from arthritis, depression and anxiety. With regard to alternative accommodation, Miss Hay advised that she has made initial enquiries with the local authority and should be given priority when an eviction order is granted.

### **Findings in Fact**

11. From the Application and the CMD, the Tribunal made the following findings in fact: -

- i) There is a private residential tenancy of the Property between the Parties;
- ii) The correct statutory procedure has been carried out;
- iii) A mortgage is secured against the Property;
- iv) The Applicants intend to sell the Property to alleviate financial pressures;
- v) The Respondent has accrued rent arrears;
- vi) The Respondent is not in employment and is in receipt of Universal Credit, with the current rent being paid directly to the Applicants;
- vii) The Respondent has two children, aged four and fourteen years;

### **Rule 17 (4) of the Rules**

12. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal “*may do anything at a case management discussion .....including making a decision*” . The Tribunal took the view that it had sufficient information to make a decision.

### **Issue for the Tribunal**

13. The statutory procedure and Ground being established and the Application not being opposed, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal took the view that it had sufficient information to make a decision on reasonableness.

### **Decision and Reasons for Decision**

14. The Tribunal must establish, consider and properly weigh the “whole of the circumstances in which the application is made” (Barclay v Hannah 1947 S.C. 245 at 249 per Lord Moncrieff) when deciding whether it is reasonable to grant an order for possession. Accordingly, the Tribunal looked to balance the rights and interests of both parties.

15. The Tribunal had regard to the Applicants’ circumstances and accepted that the Applicants’ reason to sell the Property is to release capital to support their changing financial position. Although rent arrears is not a Ground on which the Application proceeds, the Tribunal noted that, as there are mortgage and other costs associated

with the Property, the Respondent's failure to pay the full rent has had a negative financial impact on the Applicants.

16. With regard to the Respondent, the Tribunal noted that she does not oppose the Application and seeks a short extension on an eviction Order coming into effect. With regard to alternative accommodation, the Tribunal noted that the Respondent has made enquiries with the local authority and so the Tribunal was satisfied that, if evicted and made homeless, the Respondent and her family would have protection in terms of Part II of the Housing (Scotland) Act 1987 and so would be able to access advice and assistance to secure accommodation suitable to their needs.

17. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction Order and that it is fair and just to stay the effective date of the Order to 8 July 2026.

18. This decision is unanimous.

### **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.**

# K. Moore

— 8 May 2026