



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/25/3948

Re: Property at 6/5 Loganlea Place, Edinburgh, EH7 6PB (“the Property”)

Parties:

Mr Alexander Collie, 5 Broomfield Way, Montrose, DD10 8UD (“the Applicant”)

Miss Emma Angus, formerly Reid, 6/5 Loganlea Place, Edinburgh, EH7 6PB (“the Respondent”)

Tribunal Members: Ruth O’Hare, Legal Member, and Angus Lamont, Ordinary Member

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of paragraph 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) are met in this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

In terms of section 54(1) of the 2016 Act, the private residential tenancy between the parties will end on 14 July 2026.

Background

- 1 This is an application for an eviction order under section 51 of the 2016 Act and rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant relied upon ground 1 as the ground for possession, stating his intention to sell the property.
- 2 The application was accepted and referred to a tribunal for determination. A case management discussion was scheduled to take place on 30 April 2026 at 10am. The tribunal gave notice of the CMD to the parties in accordance with Rule 17(2). Said notice was served upon the Respondent by sheriff officers and required her

to make written representations in response to the application no later than 4 April 2026.

- 3 On 17 April 2026 the Tribunal received an email from the Applicant stating that he had received a text message from the Respondent indicating that she was requesting a postponement of the CMD on health grounds. The Applicant opposed the postponement for reasons outlined in his email.
- 4 On 27 April 2026 the Tribunal received a telephone call from the Respondent requesting an update on her postponement request. It transpired that the Respondent had emailed the Tribunal on 16 April 2026 but had not included any identifying information regarding the application. The Respondent subsequently re-sent her email with the postponement request and provided a statement of fitness for work confirming that she was signed off her employment for three months. She sought a short postponement of the CMD due to the impact of her medical conditions on her mental health. Due to the lateness of the request, the Tribunal advised the parties that it would be dealt with as a preliminary matter at the CMD. The Respondent was asked to confirm her position on the application in writing if she was unable to attend the CMD.
- 5 On 29 April and 30 April 2026 the Tribunal received further emails from the Respondent. The Respondent indicated that she would be unable to attend the CMD due to her poor mental health and was seeking a short postponement of a few weeks.

The CMD

- 6 The CMD took place on 30 April 2026 by teleconference. The Applicant joined the call. The Respondent did not. The tribunal noted the terms of her emails stating that she would be unable to attend and requesting a postponement of the CMD.
- 7 Having heard submissions from the Applicant, the tribunal determined it would be in the interests of justice to postpone the CMD to allow the Respondent the opportunity to attend. The CMD was therefore adjourned and rescheduled to take place on 19 May 2026 at 11.30am. The Respondent was directed to provide a written response to the application which was received on 15 May 2026.
- 8 The second CMD took place on 19 May 2026 at 11.30am. Both parties joined the call. The Respondent confirmed that she had reverted to her maiden name of Angus which was noted by the tribunal.
- 9 The tribunal explained the purpose of the CMD. The tribunal noted that the Respondent had provided written representations which contained potentially sensitive information and had not been crossed over to the Applicant. The Respondent confirmed that she would be content for the representations to be disclosed. The tribunal therefore adjourned the CMD for a short period for the Applicant to be provided with the Respondent's written representations.

- 10 The tribunal had the following documents before it:-
- (i) Form E application form;
 - (ii) Private residential tenancy agreement between the parties;
 - (iii) Notice to leave and proof of delivery to the Respondent;
 - (iv) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 (“section 11 notice”) and proof of delivery to the local authority;
 - (v) Bank statements;
 - (vi) Copy letter from Wilson Property Group confirming the Applicant’s instructions to market and sell the property; and
 - (vii) The Respondent’s written representations.
- 11 The tribunal proceeded to hear submissions from the parties on the application. The following is a summary of the key elements of the submissions.
- 12 The Applicant confirmed his intention to sell the property. Both he and his wife suffer from ill health. The property is located in Edinburgh and the Applicant can no longer manage it from a distance. He owns two other rental properties which are in the locality of his home. The Applicant explained that no rent had been paid for 10 months and there are arrears of £7350. The Applicant is struggling financially. He has a mortgage over the property and is facing repossession by the lender if the situation is not resolved. His wife can no longer work due to her health and he is having to take on extra hours at work to make ends meet. It is no longer financially viable and he can’t cope with it anymore.
- 13 The Respondent confirmed that she did not dispute the Applicant’s entitlement to sell the property, nor his intention to do so. She referred to her written submissions, outlining her own health issues. She hasn’t found alternative accommodation. She did secure a property back in August 2025 but it fell through. She is on universal credit and believes that this is why her applications for private housing are not being accepted. She accepted that no rent has been paid since July 2025, citing disputes with the Applicant, her health, and significant financial stress. She has been signed off work since 2023. She intends to repay the arrears gradually within her means. She had spoken to the council and CAB but had been told that she will not be entitled to housing as she previously gave up a council tenancy in 2020. She has been informed that Edinburgh’s housing list is closed. She confirmed that she is in receipt of universal credit with a housing element. She did not intentionally withhold her rent and has not contacted the Applicant regarding the situation. She confirmed that she would be looking for time to secure alternative accommodation. The Respondent explained that she resides in the property with her two sons, aged 10 and 9. She also has another child aged 14 who stays with her at weekends, and with her sister during the week. Her relationship with her sister has broken down.

Findings in fact

- 14 The Applicant is the owner and landlord, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement, which commenced on 31 October 2020.
- 15 The Applicant has given the Respondent a notice to leave within the meaning of section 62 of the 2016 Act. The notice to leave included ground 1 of scheduled 3 of the said Act.
- 16 The Applicant has given the local authority a section 11 notice at the time of making this application.
- 17 The Applicant is entitled to sell the property as the registered owner.
- 18 The Applicant intends to sell the property, or market the property for sale, within three months of the Respondent vacating.
- 19 The Applicant and his wife suffer from ill health. The property is located in Edinburgh. The Applicant resides in Montrose. The Applicant can no longer manage the property due to the distance. The Applicant has two other rental properties which are in the locality of his own home.
- 20 The Applicant has a mortgage over the property. The Applicant's mortgage payments are approximately £500 per month. The Applicant has received no rent for the property since July 2025, resulting in arrears of £7350.
- 21 The Applicant is suffering financially. The Applicant's wife cannot work due to ill health. The Applicant has taken on extra hours at work to meet his ongoing costs. The Applicant's financial position is not sustainable. The Applicant requires to sell the property otherwise he risks repossession by the mortgage lender.
- 22 The Respondent resides in the property with her two sons, aged 10 and 12. The Respondent has an older child aged 14 who stays with her at weekends.
- 23 The Respondent is in receipt of universal credit with a housing element. The Respondent has not paid rent for the property since July 2025.
- 24 The Respondent suffers from ill health. The Respondent has been signed off work since 2023.
- 25 The Respondent has been applying for alternative accommodation in both the private and social rented sectors. The Respondent has not yet secured a new property.
- 26 The relationship between the parties has broken down.
- 27 It is reasonable to make an eviction order, provided the Respondent is given additional time to source alternative accommodation for herself and her family.

Reasons for decision

- 28 The tribunal was satisfied that it could make relevant findings in fact to reach a decision on the application based on the documents and submissions from the parties at the CMDs, and that to do so would not be contrary to the interests of the parties in this case. It was clear that the substantive facts of this case were not in dispute, and the tribunal did not therefore identify any issues to be resolved that would require a hearing to be fixed.
- 29 Section 51 of the 2016 Act provides that “*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.*”
- 30 Section 52 of the 2016 Act goes on to state that “*an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant.*” The tribunal had before it a copy of a notice to leave in the prescribed form that had been sent to the Respondent which cites ground 1 of schedule 3 of the 2016 Act. The tribunal was also satisfied that the Applicant had sent a section 11 notice to the local authority in accordance with the requirements of section 56 of the 2016 Act.
- 31 The tribunal considered the terms of ground 1, which are contained in paragraph 1 of schedule 3 of the 2016 Act:-

“Landlord intends to sell

*1(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.*

*(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.”*

- 32 The tribunal determined based on the documents before it and the submissions from parties at the CMD that the Applicant is entitled to sell the property as the registered owner and intends to do so within three months of the Respondent vacating. The Respondent did not dispute this and as such there was no contradictory evidence before the tribunal.

- 33 The tribunal therefore determined that paragraph 1(2)(a) and (b) of schedule 3 of the 2016 Act were met.
- 34 The tribunal went on to consider the reasonableness of making an eviction order in this case in accordance with the terms of paragraphs 1(2)(c) of schedule 3 of the 2016 Act. The tribunal accepted the submissions from the parties on the factors relevant to reasonableness which led the tribunal to determine which should be given greatest weight in the circumstances of this application.
- 35 The tribunal gave significant weight to the Applicant's property rights as the heritable owner, and his reasons for selling the property. The tribunal considered his current circumstances, noting that he and his wife are in poor health and were no longer able to manage the property due to its distance from his own home. The tribunal also gave great weight to the Applicant's present financial situation, noting the lack of rent payments which had caused him significant difficulties. The tribunal accepted that the property was no longer financially viable in such circumstances and understood his urgent need to sell the property to alleviate his financial pressures.
- 36 The tribunal carefully considered the Respondent's circumstances. The tribunal noted that she resides with two young children in the household who would be at risk of homelessness. The tribunal also noted that she too suffers from her own health issues which means she is unable to work. However, the tribunal noted that she appeared to accept that she requires to leave the property as evidenced by her ongoing search for alternative accommodation. The tribunal could also deduce from the parties' submissions that the relationship between them has broken down, and ultimately it may benefit them both if the tenancy is brought to a conclusion, particularly given the lack of rent payments which had resulted in a significant balance of arrears.
- 37 Whilst the Respondent had indicated that the local authority would not provide her with housing if an eviction order was granted, that did not align with the tribunal's specialist knowledge of the statutory obligations incumbent on local authorities, particularly where children are involved. The tribunal understood that the local authority would at the very least have an obligation to provide the Respondent with temporary accommodation should an eviction order be granted. The tribunal considered that it would be reasonable for the Respondent to be given some additional time to make further inquiries in order to secure alternative accommodation for herself and her children.
- 38 Accordingly, in considering those factors relevant to reasonableness the tribunal concluded that the balance weighed in favour of making an eviction order provided enforcement of the order is suspended for the reasons outlined above. The tribunal therefore determined that the provisions of paragraph 1 of schedule 3 of the 2016 Act had been met and made an eviction order under section 51 of the 2016 Act with execution of the order suspended for a period of eight weeks.

39 The decision of the tribunal was 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.

R.O'Hare

19 May 2026

Legal Member/Chair

Date