



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/25/3958

Re: Property at 21 Stafford Road, Dornoch, IV25 3LN (“the Property”)

Parties:

Mr Roderick MacLennan, Mrs Lesley MacLennan, 199 Lednabirichen, Dornoch, IV25 3NE (“the Applicant”)

Mr Bryan Urquhart, 21 Stafford Road, Dornoch, IV25 3LN (“the Respondent”)

Tribunal Members:

Julie McKinlay (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted.

Background

1. By application dated 16 September 2025 the applicants sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 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 18 November 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 23 April 2026, and appropriate intimation of the hearing was given to all parties.

Case Management Discussion

3. The CMD took place on 23 April 2026 via telephone case conference. The applicants represented themselves. The respondent did not take part. The Tribunal was satisfied that the respondent had received personal service of the application and details of the CMD by sheriff officers on 9 March 2026. As such the Tribunal decided to proceed with the CMD in the absence of the respondent.
4. The Tribunal heard from the applicants.
5. The applicants explained that they had been the owners of the property for approximately 15 years. They required to pay a mortgage in respect of the property as well as the mortgage on their own home. Absent payment of the rent this was becoming increasingly difficult. One applicant was recently retired and the other self-employed. There was a period of time in which rent was paid sporadically. In or around December 2024 the respondent ceased to pay the rent. The rent is £530 per month. As at the date of the CMD the arrears are £7850.00. As far as the applicants were aware the respondent lived alone at the property and was around 44 years old. He was engaged in casual work. The applicants wish to sell the property as they cannot afford to continue to pay two mortgages. It is their only rental property.

Findings in Fact

6. The applicants are the registered owners of the property.
7. The applicants are the landlord and the respondent the tenant in terms of the private residential tenancy entered into on 28 December 2020.
8. The agreed monthly rental payment was £530.00.
9. The respondent is in arrears of rent in the sum of £7850 as at the date of the CMD.
10. The applicants have attempted to contact the respondent by WhatsApp message to discuss the arrears but were met with abuse.
11. On 23 June 2025 the applicants served upon the respondent a notice to leave as required by the Act. The notice informed the respondent that the applicant wished to recover possession using the provisions of the Act.
12. A notice was served on Highland Council by the applicants under section 11 of the Homelessness etc (Scotland) Act 2003.
13. The applicants are entitled to sell the property and intends to do so. The applicants have instructed Estate Agents to act on their behalf in connection with the sale.

Reasons for Decision

14. The Tribunal noted that the eviction was sought under and in terms of ground 1 of schedule 3 of the Act.

15. That ground is in the following terms:

“1. Landlord intends to sell

(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 the 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.”

16. The parties are the landlord and tenant of the property which is a private residential tenancy under the Act. A Notice to Leave was served on the respondent indicating that the applicant intended to seek an eviction order based on ground 1. The applicants are entitled to sell the property. The applicants produced a letter from their Estate Agents dated 9 September 2025 confirming their willingness to act on behalf of the applicants in the sale of the property and setting out their terms and conditions.

17. The Tribunal is satisfied that the applicants intend to sell or at least market the property at market value within 3 months of the tenant ceasing to occupy. They are currently required to maintain the mortgage on the property while the respondent does not make payment of rent and that position is unsustainable in circumstances where they also require to meet mortgage payments on their own home. The Tribunal accept the evidence of the applicants on that matter.

18. The Tribunal must also be satisfied that it is reasonable to grant the order. In determining whether it is reasonable to grant the order the Tribunal is required to balance all of the evidence which has been presented and to weigh the various factors which apply to the parties.

19. The Tribunal find that it is reasonable to grant the order.

20. The Tribunal accepts that the applicants are entitled to sell and wish to do so. The respondent is in arrears in respect of the rent in the sum of £7850. The respondent has not made a payment towards the rent due in terms of the tenancy for a period of over a year. When contacted by the applicants to discuss the arrears he was abusive.

21. The applicants are required to meet the cost of the mortgage on the property in circumstances where the rent is not being paid by the respondent. They also have a mortgage on their own home, and it is their position that to continue to meet the cost of both mortgages is unsustainable. One of the applicants is now retired and the other self-employed.

22. The respondent is aged in his 40s and lives alone at the property. The respondent has not provided that Tribunal with any information as to his present circumstances.

23. In all the circumstances it is reasonable to grant the order.

24. The Tribunal exercised the power within rule 17 of the procedural rules and determined that a final order should be made at the CMD.

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.

J McKinlay

Legal Member/Chair

Date 23 April 2026