



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/25/2420

Re: Property at 4 Ochtreure Way, Stranraer, DG9 7SQ (“the Property”)

Parties:

Mr Andrew Downie, Blair Lomond, Stoneykirk Road, Stranraer, DG9 7BU (“the Applicant”)

Mr Jamie Paton, Lindsey Krieger, 4 Ochtreure Way, Stranraer, DG9 7SQ (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondents from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 14 March 2026 informing both parties that a CMD had been assigned for 30 April 2026 at 10am, which was to take place by conference call. In that letter, the parties were also told that they were required

to take part in the discussion and were informed that the Tribunal could make a decision on the application at the CMD if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondents were invited to make written representations by 4 April 2026. No written representations were received.

The case management discussion – 30 April 2026

4. The CMD took place by conference call. The Applicant was represented by Mr David Paterson. The Respondents did not join the call and the discussion proceeded in their absence. The Tribunal explained the purpose of the CMD.
5. The Respondents have not been in contact with the Applicant's representative in relation to these proceedings. They continue to live in the Property. The family composition is unknown to the Applicant's representative as is their Respondents' employment status. No rent has been paid since January 2025. The rent arrears now due amount to £7,955. The Respondents made contact with the Applicant directly to advise that they have been in contact with the local authority. They cannot voluntarily leave the Property and it is believed that they are waiting on an eviction order being granted. The Applicant's representative explained that the Applicant owns other rental properties but intends to sell this Property to enable him to purchase a new property for him to live in.
6. The Tribunal asked for submissions on the validity of the notice to leave. The Applicant's representative advised that the Applicant miscalculated the date required in section 4 of the notice to leave. It was accepted that the rent arrears did not meet the requirements of eviction ground 12 at the point that the notice to leave was served and the Applicant is therefore relying on ground 1 alone.
7. The Tribunal adjourned the CMD to enable the members to discuss matters in light of the information provided. When the CMD was reconvened, the Tribunal explained that it found the notice to leave is valid, the ground for eviction is established, and that it is reasonable to grant an order for eviction.

Findings in Fact

8. The Applicant is the owner and landlord of the Property at 4 Ochtrelure Way, Stranraer, DG9 7SQ.
9. The Respondents are the tenants of the Property.
10. The tenancy in question is a private residential tenancy which commenced on 25 April 2019.
11. The Applicant personally delivered a Notice to Leave on the Respondents on 5 February 2025.

12. The Applicant intends to sell the Let Property.

Reason for Decision

13. The Tribunal was satisfied that it could make relevant findings in fact in order to reach a decision following the CMD, and that to do so would not be contrary to the interests of the parties in this case.

14. The Tribunal proceeded on the basis of the documents lodged and the information provided at the CMD. The Applicant intends to sell the Property.

15. The Tribunal considered the validity of the notice to leave. The Applicant served the notice on 5 February 2025. The notice stated that an application would not be submitted to the Tribunal before 30 April 2025. Given that the Applicant is relying on ground 1, 84 days' notice is required. The 84-day period expired on 30 April 2026. In terms of section 62(1) (b) of the Private Housing (Tenancies) (Scotland) Act 2016, the Applicant had to specify the date upon which he expected to become entitled to make an application to the Tribunal. That date should be the day falling after the expiry of the period of notice, that is to say, 1 May 2025. The Tribunal considered the Upper Tribunal decision of *John & Elizabeth Halcrow v Ben Davies & Shauni Hunter UTS/AP/25/0019*. Following the reasoning of that decision, the Tribunal concluded that the failure in the notice to leave to correctly specify the day on which the Applicant expected to become entitled to make an application for an eviction order, is not an error which materially affects the effect of the document for the purposes of section 73 of the 2016 Act.. The notice to leave is accordingly valid.

16. On the basis of the documentary evidence and the submissions made at the CMD, the Tribunal determined that the ground of eviction is established.

17. The Tribunal proceeded to consider whether it is reasonable to grant an order for eviction. The Respondents have not engaged with the Applicant's representative or the Tribunal in relation to these proceedings. The application is not opposed. The Respondents have not paid rent for more than a year and the rent arrears due to the Applicant are now substantial. There has been no offer of payment and no reason given to the Applicant or his representative as to why rent has not been paid. The Respondents are failing to meet their primary obligation to pay rent. The Applicant provided a reason why he wishes to sell the Property. Taking account of these factors, the Tribunal decided that it is reasonable to grant an order evicting the Respondents from the Property.

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.

Nicola Irvine

Legal Member/Chair

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Date 30 April 2026