



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) Section 51 of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/25/4818

Re: Property at 19 Edward Drive, Helensburgh, Argyll & Bute, G84 9QR (“the Property”)

Parties:

**Mr James Gaynor, Mrs Melanie Gaynor, Defence Infrastructure Organisation,
Building 69, HM Naval Base, Unknown (“the Applicant”)**

**Mrs Joanne Ward, 19 Edward Drive, Helensburgh, Argyll and Bute, G84 9QR
 (“the Respondent”)**

Tribunal Members:

Robert MacDonald (Legal Member) and Elizabeth Williams (Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“The Tribunal”) determined that the provisions of paragraph 1 of Schedule 3 of the 2016 Act are met in this case and determined that it should grant an order for recovery of possession but postpone the period of enforcement by 60 days.

The Tribunal therefore made an Eviction Order under Section 51 of the 2016 Act.

In terms of Section 51(4) of the 2016 Act, the private residential tenancy between the parties will end on 25th July 2026.

Background

1. This is an application dated 7th November 2025 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 and Procedure 2017) (“The Rules”). The Applicant relied upon ground 1 of schedule 3 to the 2016 Act as the ground for eviction, namely that the Applicant intended to sell the property.

2. The application was accepted by the Tribunal as valid on 27th January 2026 and referred to a Tribunal for determination. The Case Management Discussion (“CMD”) was set down to take place on 26th May 2026 by teleconference. The Tribunal gave notice of the CMD to the parties in accordance with rule 17(2) of the rules. The Notice was served on the Respondent by Sheriff Officers on 27th April 2026.
3. The Tribunal invited the Respondent to make written representations in response to the application by 14th May 2026. The Respondent lodged written submissions with the Tribunal on 11th May 2026.

The Case Management Discussion

4. The CMD took place on 26th May 2026 at 2pm. The Applicants and the Respondent were present on the call.
5. The Tribunal had the following documents before it:-
 - a. Form E application form;
 - b. Copy Land Certificate confirming that the property was owned by the Applicants;
 - c. Evidence that the Applicants were registered as a landlord;
 - d. A copy of the private residential tenancy agreement between the parties;
 - e. A copy of the Notice to Leave and proof of delivery of the Notice on the Applicant by email on 12th August 2025;
 - f. Copy Section 11 Notice in terms of the Homelessness Etc (Scotland) Act 2003 and proof of delivery to the Local Authority on 3rd December 2025.
 - g. Copy letter by the First Applicants employer confirming that his residency in Gibraltar was coming to an end and that he would require to vacate his current accommodation on 31st July 2026;
 - h. Submissions from the Respondent in relation to her attempts to obtain alternative housing for herself and her family.
6. The Tribunal heard submissions from the Applicants and from the Respondent.
7. The Applicants advised the Tribunal that the property had been their family home. They had purchased the property in 2009 and had lived there between 2009 and 2015. Mr. Gaynor had then gained employment in Gibraltar and the Applicants had moved there and rented the property out. Mr Gaynor is 66 years of age and his employment in Gibraltar ends on 31st July 2026. The Applicants will require to leave the accommodation provided for them there and return to Scotland. Mrs. Gaynor had recently been treated for cancer. The Applicants intention was to sell the property and to use the funds to help the purchase a property in Glasgow where they could be near their adult children. They were not professional landlords. They had no other accommodation open to them in Scotland. If they recovered possession of the property they would place it on

the market as soon as possible. They intended to instruct Clyde Property Ltd who had managed the property during the tenancy.

8. The Respondent advised the Tribunal that she was 47 years of age. She lived in the property with two daughters aged 12 and 10 and her elderly mother who was 77 years of age. Her mother had mobility issues and other medical problems. The Respondent was awaiting tests for a potentially serious condition. She had 2 children aged 12 and 10 who were being assessed for neuro diversity She had been made aware by the Applicant's agents in May of last year of their intention to sell the property. She advised the Tribunal that she had been looking for alternative accommodation since then and she had provided the Tribunal with evidence of her interaction with various organisations to be re-housed. She needed a three-bedroom property and there was a shortage of similar properties in the area. Her children were at school locally. She was on the local waiting list for social housing and had been for more than four years. She had previously been the victim of domestic violence. She said that her attempts to obtain suitable alternative accommodation had been unsuccessful so far and she didn't know when it would be possible to get re-housed. She had been offered a house in a less desirable part of Helensburgh but had turned it down. She was self-employed and her income varied. She couldn't get a mortgage to buy a property. There were no rent arrears.
9. The Tribunal adjourned the CMD to deliberate outwith the presence of the parties. After a brief adjournment, the Tribunal resumed the CMD and confirmed the outcome.

Findings in Fact and Law

10. The Applicants are the owners of the property in terms of a Land Certificate registered in the Land Register, title number DNB7124. They are the landlords, and the Respondent is the tenant of the property in terms of a private residential tenancy agreement which commenced on 25th October 2021.
11. The Applicants agents sent a Notice to Leave as defined by Section 62 of the 2016 Act to the tenant by email on 16th August 2025. The terms of the private residential tenancy agreement provided for service of such Notices by email. In terms of the Notice the Respondent was advised that an application might be submitted to the Tribunal for an Eviction Order after 7th November 2025.
12. Notice in terms of Section 11 of the Homelessness Etc (Scotland) Act 2003 was sent on behalf of the Applicants to Argyle and Bute Council on 3rd December 2025.
13. The property was previously occupied by the Applicants between 2009 and 2015.

14. The Applicants required to leave their accommodation in Gibraltar and to return to Scotland by 31st July 2026.
15. The Applicants have no other property available to them to live in, in Scotland.
16. The Applicants wish to sell the property in Helensburgh and purchase a property in Glasgow where they can be near their adult children.
17. The First Applicant is 66 years of age and ready to retire. The Second Applicant is 60 years of age and has been treated for serious health condition.
18. There are no rent arrears in respect of this property.
19. The Respondent resides in the property with two children and her elderly and infirm mother.
20. All the occupants of the property have individual health issues. The Respondent is facing investigation into a potentially serious health condition.
21. The Respondent is on the housing register in her Local Authority area and has been for four and a half years.
22. The Respondent has made efforts to find alternative accommodation but so far has been unsuccessful in finding suitable alternative accommodation.
23. It is reasonable to make an Eviction Order.

Reasons for Decision

24. The Tribunal was satisfied having considered all the documentary evidence before the Tribunal and the submissions from the parties that it has sufficient information before it to make the relative findings in fact and to enable it to reach a decision on the application. The Tribunal accepted the documentary evidence and the submissions from both parties.
25. The Tribunal was satisfied that the Applicants had complied with the statutory requirements in relation to service of the Notice to Leave on the tenant and intimation to the Local Authority.
26. The Tribunal was satisfied that the Applicants wished to return to Scotland after 31st July 2026 as the First Applicant's employment was coming to an end. The Tribunal considered that this had been the Applicant's family home and it had

been let out when they moved to Gibraltar to work. They were not professional landlords.

27. The Tribunal considered the Respondent's circumstances. It was accepted that she had struggled to find alternative accommodation. Her family needs were complex.

28. The Tribunal considered whether it was reasonable to make an Eviction Order on account of the information available to it which required the Tribunal to identify the factors relevant to issues of reasonableness and determine how much weight should be applied to them. The Tribunal attached considerable weight to the fact that the Applicants were returning to Scotland following a period where they had lived abroad and they required to obtain accommodation. They had no other accommodation available to them in Scotland and they wished to sell their property to enable them to buy somewhere close to family.

29. Having considered the factors relevant to reasonableness, the Tribunal concluded that it was reasonable for an order for eviction to be granted. The Tribunal was satisfied that the provisions of paragraph 1 of Schedule 3 of the 2016 Act had been met in this case. The Tribunal recognised that the Respondent required some time to consider her housing options and to find alternative accommodation for her family. The Tribunal were of the view that she should be given an additional thirty days to assist her in that regard.

30. The decision of the Tribunal was unanimous.

Decision

The Tribunal grants an Order for possession of the Property but postpones the period of enforcement by 60 days.

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.

Robert MacDonald

26/05/2026

Legal Member/Chair

Date