



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/25/3793

Re: Property at Flat 0/2, 40 Tantallon Road, Shawlands, Glasgow, G41 3BX (“the Property”)

Parties:

Mr Stephen Wright, Mrs Laura Chong, 0/2, 19 Sherbrooke Avenue, Pollokshields, Glasgow, G41 4HF; 37 St Gabriels Road, London, NW2 4DT (“the Applicants”)

Mr James McKay, Ms Hannah Middlefinch, Flat 0/2, 40 Tantallon Road, Shawlands, Glasgow, G41 3BX; 129 Erradale Street, Glasgow, G22 6PQ (“the Respondents”)

Tribunal Members:

Ms H Forbes (Legal Member) and Ms S Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted with enforcement of the order delayed to 27th February 2027.

Background

1. This is a Rule 109 application whereby the Applicants are seeking an eviction order under ground 1. The Applicants’ representative lodged a copy of a tenancy agreement between the parties commencing on 1st December 2020, copy notices to leave with evidence of service, copy section 11 notice with evidence of service, and evidence to support the ground of eviction.
2. Notification of the application and Case Management Discussion was made upon the Respondent, Mr McKay, by Sheriff Officer on 11th February 2026.
3. Notification of the application and Case Management Discussion was made upon the Respondent, Ms Middlefinch, by Sheriff Officer on 12th February 2026.

4. By email dated 27th February 2026, Mr McKay, lodged written representations and requested a postponement of the Case Management Discussion set down for 26th March 2026, in order to secure Legal Aid for representation. Mr McKay also made representations regarding the joint tenancy.
5. By email dated 4th March 2026, the Applicants' representative opposed the postponement.
6. A medical letter was lodged with the Tribunal on 18th March 2026 in support of Mr McKay's request for a postponement.
7. The Tribunal did not grant the request for a postponement, as it considered it would not be in the interests of justice to postpone a procedural hearing. The Tribunal offered to put in place adjustments to allow Mr McKay to attend.
8. By email dated 17th March 2026, the Applicants' representative lodged information indicating that the joint tenancy had not been brought to an end despite Ms Middlefinch providing notice that she was leaving the Property in September 2021.
9. By email dated 25th March 2026, Mr McKay lodged confirmation that he lives alone in the Property.
10. A Case Management Discussion ("CMD") took place by telephone conference on 26th March 2026. The Applicants were not in attendance and were represented by Ms Callaghan, Paralegal, TC Young. The Respondent, Mr McKay, was in attendance. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent, Ms Middlefinch. Mr McKay sought additional time for advice and representation. The application was adjourned to an evidential hearing on reasonableness. The Tribunal issued a Direction ordering the Respondent, Mr McKay, to lodge a note of defence to the application.
11. A hearing was scheduled for 25th August 2026.
12. By email dated 1st July 2026, the Applicants' representative lodged submissions stating that parties had agreed a position whereby Mr McKay would consent to an eviction order being granted on the basis that enforcement of the order be delayed until 27th February 2027. The Applicants' representative confirmed that Mr McKay had secured alternative accommodation which would be available from late February 2027. The Applicants' representative submitted that, given that Ms Middlefinch has not resided at the Property since 2021, there would be no prejudice to her in granting the order. The Applicants' representative invited the Tribunal to proceed in terms of Rule 18 of the Procedural Rules by granting the order without the need for a hearing.

13. By email dated 1st July 2026, Mr McKay's representative confirmed Mr McKay's agreement to the proposal as set out by the Applicants' representative and to proceed in terms of Rule 18.

Findings in Fact and Law

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- (i) Parties entered into a private residential tenancy in respect of the Property commencing on 1st December 2020.
 - (ii) Ms Middlefinch left the Property in or around 2021. The joint tenancy continued.
 - (iii) Notice to leave has been served upon the Respondents.
 - (iv) The Applicants intend to sell the Property.
 - (v) The Applicants are entitled to sell the Property.
 - (vi) The Applicants intend to sell the Property or at least put it up for sale within three months of the Respondent ceasing to occupy the Property.
 - (vii) It is reasonable to grant an eviction order.
 - (viii) It is reasonable to delay execution of the eviction order to 27th February 2027.

Reasons for Decision

15. Ground 1 of Schedule 3 of the Act provides that it is an eviction ground if the Landlord intends to sell the let property. The Tribunal may find that the ground is met if the landlord is entitled to sell the let property, intends to sell it for market value, or at least put it up for sale, within three months of the tenant ceasing to occupy it, and the Tribunal is satisfied that it is reasonable on account of those facts to issue an eviction order. The Tribunal is satisfied that ground 1 is met.
16. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
17. The Applicants no longer wish to be landlords. The Applicants are selling their property portfolio. One of the Applicants requires his half share of the proceeds of the sale of the Property to assist him in purchasing another property. His current living circumstances are impacting his health. The other Applicant requires a capital sum for an urgent situation.

18. The Respondent, Mr McKay, has secured alternative accommodation that will be available from late February 2027. Mr McKay has agreed to the granting of the order.
19. The Respondent, Ms Middlefinch, has not lived at the Property since 2021 and will not be prejudiced by the granting of an order.
20. The Tribunal considered it was reasonable to grant the order sought. The Tribunal considered it was reasonable to delay execution of the order to 27th February 2027.

Decision

21. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 27th February 2027.

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.

Helen Forbes

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Legal Member/Chair

13th July 2026
Date