



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/26/0581

Re: Property at 491 Balunie Drive, Dundee, DD4 8UP (“the Property”)

Parties:

Altair Property Limited, Kinmoth Road, Drumlithie, Stonehaven, Aberdeen, AB39 3YF (“the Applicant”)

Mr Kevin Cavanagh, Ms Ann Cavanagh, 491 Balunie Drive, Dundee, DD4 8UP (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Angus Lamont (Ordinary Member)

Decision

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 27 August 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 of schedule 3 of the 2016 Act, stating their intention to sell the property.
- 2 The application was accepted as valid and referred to a tribunal for determination. A case management discussion (“CMD”) was scheduled to take place on 27 July 2026 at 2pm. The Tribunal gave notice of the CMD to the

parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondents by sheriff officers on 25 June 2026 and required the Respondents to make written representations in response to the application.

- 3 On 13 July 2026 the Tribunal received written representations from Dundee Law Centre on behalf of the Respondents.

The CMD

- 4 The CMD took place by teleconference on 27 July 2026 at 2pm. Miss Kirsty Donnelly of TC Young Solicitors represented the Applicant. Mr Robert Gibson, of Dundee Law Centre represented the Respondents.
- 5 The tribunal had the following documents before it:-
 - (i) Form E application form;
 - (ii) Land certificate confirming the Applicant's ownership of the property and proof of the Applicant's landlord registration;
 - (iii) Private residential tenancy agreement;
 - (iv) Notice to leave and proof of delivery to the Respondents;
 - (v) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 ("section 11 notice") and proof of delivery to the local authority;
 - (vi) Home report for the property dated 14 January 2026; and
 - (vii) The Respondents' written representations.
- 6 The tribunal explained the purpose of the CMD and proceeded to hear submissions from the parties. The following is a summary of the key elements of the submissions.
- 7 Miss Donnelly confirmed that the Applicant sought an eviction order. They were in the process of selling off their rental properties with a view to exiting the private rental sector. The Applicants have to date reduced their portfolio from six to three rental properties in Dundee. The Applicant also has three rental properties in Aberdeenshire. The Applicant's directors are aged 59 and 60. They do not wish to be landlords anymore. The Applicants had approached the local authority to explore whether the local authority could purchase the property with the Respondents in situ. The local authority had stated that they cannot consider this until the Applicant has vacant possession. The eviction order is therefore necessary. The Applicant understands that the Respondents have approached the local authority for rehousing but have been told not to vacate the property until an eviction order is granted. The Applicant understands that the Respondents are unemployed and have five children.
- 8 Mr Gibson explained that the Respondents were not advancing a defence to the application. They are prepared to move out. They have applied to the local authority for housing and have been placed fairly high on the waiting list, with medical priority. The Respondents have five children, one of whom is now 18. Three of their children are entitled to child disability payments. The Respondents will require a five bedroom house. Mr Gibson's colleague had

discussed a potential suspension of the enforcement of the order with the Respondents, however they are not interested in delaying matters any further. The Respondents have been placed first and second on the local authority waiting list in their chosen areas.

- 9 The tribunal adjourned the CMD to deliberate, at which point the parties left the call, before resuming the proceedings and confirming the outcome.

Findings in fact and law

- 10 The Applicant is the owner and landlord, and the Respondents are the tenants, of the property in terms of a private residential tenancy agreement.
- 11 The Applicant has given the Respondents a notice to leave within the meaning of section 62 of the 2016 Act. The notice to leave includes ground 1.
- 12 The Applicant has given the local authority a section 11 notice at the time of making this application.
- 13 The Applicant is entitled to sell the property as the registered owner.
- 14 The Applicant intends to sell the property, or market the property for sale, within three months of the Respondents ceasing to occupy it. The Applicant has obtained a home report from Allied Surveyors Scotland in anticipation of the sale.
- 15 The Applicant is a limited company. The Applicant's directors are aged 59 and 60. The Applicant's directors wish to withdraw from the private rented sector. The Applicant is in the process of selling off their rental portfolio.
- 16 The Respondents reside in the property with their 5 children, three of whom are dependents. Three of the Respondents' children have additional support needs.
- 17 The Respondents have applied to the local authority for rehousing. The Respondents have placed high on the local authority waiting list.
- 18 The Respondents do not dispute the Applicant's intention to sell the property.
- 19 It is reasonable to make an eviction order.

Reasons for decision

- 20 The tribunal was satisfied that it could make relevant findings in fact to reach a decision on the application based on the documentary evidence and submissions from the parties at the CMD, and that to do so would not be contrary to the interests of the parties in this case.

- 21 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.”*
- 22 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 Respondents 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.
- 23 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.”
- 24 The tribunal determined based on the documents before it and the submissions from the 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 Respondents vacating. There was no contradictory evidence before the tribunal.
- 25 The tribunal therefore determined that paragraph 1(2)(a) and (b) of schedule 3 of the 2016 Act were met.
- 26 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.

- 27 The tribunal determined it could give most weight to the Applicant's property rights as the heritable owner of the property, which entitles them to dispose of it as they see fit. The tribunal also gave weight to their reasons for selling the property, namely to remove themselves from the private rental sector as they no longer wish to be landlords. This was a credible reason for the action they taken, and the tribunal noted that they are in the process of disposing of their entire rental portfolio.
- 28 The tribunal also considered the Respondents' circumstances. Whilst the risk of homelessness to the Respondents and their family was a cause for concern, particularly due to their health and housing needs, the tribunal noted that they had not explicitly advanced a defence of reasonableness that would require a hearing to be fixed. They were progressing an application for rehousing with the local authority and the tribunal accepted that the granting of an eviction order would assist with this. The tribunal was aware from its own specialist knowledge of the statutory obligations incumbent on the local authority to provide advice and assistance to the Respondents once an eviction order is granted. The tribunal could therefore identify no relevant factors that would weight against the granting of an eviction order in this case.
- 29 Accordingly, having considered those factors relevant to reasonableness, the tribunal 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.
- 30 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.

Ruth O'Hare

Legal Member/Chair

Date: 27 July 2026