



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

Chamber Ref: FTS/HPC/EV/25/3956

Re: Property at 8c Downie Street, Hamilton, ML3 6RT (“the Property”)

Parties:

Mr Stuart Gosling, 49 Aitken Road, Hamilton, ML3 7YA (“the Applicant”)

Mr Ryan Millar, 8c Downie Street, Hamilton, ML3 6RT (“the Respondent”)

Tribunal Members:

Alastair Houston (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be made in terms of paragraph 1 of schedule 3 of the 2016 Act

1. Background

- 1.1 This is an application under rule 109 of the Chamber rules whereby the Applicant seeks an eviction order on the basis of paragraph 1 of schedule 3 of the 2016 Act, namely due to an intention to sell the Property. The application had been accompanied by copies of the tenancy agreement between the parties, the notice to leave given to the Respondent, the notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003, a letter from an estate agent and a rent statement.
- 1.2 The Case Management Discussion took place on 30 March 2026. The Tribunal determined that a hearing was required to consider whether the Applicant intended to sell the property and whether it was reasonable to grant an eviction order.

- 1.3 Following the Case Management Discussion, the Applicant lodged a further inventory of documents. No written materials were lodged by the Respondent in advance of the Hearing.

2. The Hearing

- 2.1 The Hearing took place on 10 August 2026 by teleconference. The Applicant attended personally with his representative, Ms Brow, solicitor. The Respondent attended personally.

- 2.2 The Tribunal heard firstly from the Applicant. He was 55 years of age. He owned the Property. He was previously employed by the Fire Service but now had a small business cutting grass. He had taken the decision to sell the Property after a health scare. His intention was to reduce his property portfolio to repay finance outstanding and reduce stress. Between May 2020 and May 2026 he had sold five rental properties as detailed in documentary productions 8 through 12. They were being sold in the order in which the finance outstanding required to be redeemed. The Applicant owned two other rental properties other than the Property which was the subject of this application. Both were tenanted and he intended to take steps to sell one of those. He intended to retain ownership of the rental property at 47 Aitken Road, Hamilton, being next door to his primary residence to provide retirement funds. There were no rental properties currently being advertised to let. He had approached estate agents with a view to selling the Property with the Respondent as a sitting tenant however, was advised, due to the rent of £420.00 charged, the yield was too low to be attractive to sell without vacant possession. The Property was valued around £60,000.00 last year and there was approximately £55,000.00 outstanding in finance, the term of which would expire in November 2027. A further discussion had been had with another landlord about selling the property with the Respondent in situ following the Case Management Discussion however, this did not proceed due to the level of rent paid. The Respondent's rental payments were received by way of Universal Credit. There were arrears of around £1700.00. Payment was being received towards these at the rate of £40.01 per month. The Applicant had not had any discussions with the Respondent regarding increasing the rent and had concerns about affordability given his circumstances. He had given the Respondent £550.00 to put towards a deposit on alternative private accommodation on the understanding the Respondent would vacate the Property but the Respondent had not moved. He had had a good relationship with the Respondent. The whole process was causing him significant stress and he was being treated for anxiety and depression.

- 2.3 The Tribunal then heard from the Applicant's wife, Carol Gosling. She simply confirmed that the Applicant was taking steps to sell his property portfolio with the properties being sold systematically depending on when the finance due became payable. She was being caused stress as the Applicant had become very anxious and depressed.

2.4 Thereafter, the Tribunal heard from the Respondent. He was 45 years of age. He resided at the Property alone. He had occupied the Property for a number of years. He was not in employment and reliant on Universal Credit. He received approximately £650.00 in addition to the housing cost element. He received that level of Universal Credit due to being unfit for work as a result of anxiety and depression. He was not aware of the Applicant advertising any properties to let at present. He did not accept that the Applicant intended to sell the Property but this was only due to a feeling he had. He did not believe that the Applicant required to sell the Property as he was willing to pay a higher rent. He could afford to pay up to £550.00 per month. The current rent was £420.00 per month. He had contacted the local authority for assistance with alternative accommodation. They had not accepted a homeless application and would not do so until an eviction order was granted. He had applied directly to Clyde Valley Housing Association but had not been awarded any priority and no offer of accommodation had been forthcoming. He had also contacted Hamilton Citizens Advice Bureau but they had not provided any assistance. He accepted that the Whatsapp messages produced by the Applicant were exchanged between the parties. The Applicant had given him £550.00 last year to use as a deposit for another private let but he had spent that money on daily living costs. Private lets were available for £500-600.00 per month but he was struggling to afford one month's rent in advance together with a deposit. He required accommodation in Hamilton to be close to friends and family that provided him with support. He accepted that he owed rent arrears of around £1700.00 and those were being paid at the rate of £40.01 per month.

2.5 The Respondent stated that he wished to remain at the Property thus the Tribunal would require to refuse the application. His secondary position was that he should be allowed more time to save money to put towards private accommodation. The Applicant's representative invited the Tribunal to grant the order sought. The Applicant had demonstrated his intention to sell the Property. He had endeavoured to help the Respondent secure alternative accommodation. In the circumstances, it was reasonable to grant the eviction order.

2.6 The Tribunal indicated it would adjourn the hearing and consider the written material lodged together with the evidence from the Hearing.

3. Findings In Fact

3.1 The Applicant is the proprietor of the Property. He is entitled to sell the Property.

3.2 The Respondent has resided at the Property since February 2012. The parties entered into a private residential tenancy agreement which began on 1 January 2019.

- 3.3 The rent payable under the private residential tenancy agreement is £420.00 per month. The rent had not been increased during the tenancy agreement between the parties.
- 3.4 The Applicant intended to sell the Property as he was disposing of all but one of the properties in his portfolio. He had sold five properties during the period from May 2020 until May 2026 as finance outstanding on each of them fell to be repaid.
- 3.5 Notice to leave was given by the Applicant to the Respondent on 13 March 2025. The said notice was in force at the time of making the present application.
- 3.6 The Applicant gave notice of the present application in terms of section 11 of the Homelessness etc (Scotland) Act 2003 to the local authority on 16 September 2025.
- 3.7 The Applicant was suffering from anxiety and depression and sought to reduce the number of rental properties owned to reduce stress caused to him.
- 3.8 No other properties were being advertised by the Respondent as available for let.
- 3.9 At the current rent payable under the tenancy agreement, the yield of the property made it unattractive to sell with the Respondent as a sitting tenant. The Applicant had attempted to do but had been unable to find a buyer.
- 3.10 The Property was the subject of secured finance made available on an interest only basis. The capital sum outstanding was due to be paid to the creditor at the end of November 2027.
- 3.11 The Property had been valued at the time of making the present application at £60,000.00.
- 3.12 The Respondent had accrued arrears and was making payment of those at the rate of £40.01 per month.
- 3.13 The Respondent's income was restricted to Universal Credit paid at the rate of £650.00 per month. He is unfit to work due to anxiety and depression.
- 3.14 The Respondent had contacted the local authority for assistance regarding rehousing. No formal homeless application had been taken by the local authority. The Respondent had applied directly to Clyde Valley Housing Association but had not received an offer of accommodation to date.

3.15 In July 2025, the Applicant transferred £550.00 to the Respondent to assist with a deposit on alternative private accommodation. The Respondent spent this sum on other living costs.

3.16 Other private sector properties were available for let at a monthly rent affordable to the Respondent. He could afford to pay up to £550.00 in rent each month.

4. Reasons For Decision

4.1 The Tribunal had noted that valid notice to leave had been given to the Respondent by the Applicant. The notice was in force at the time of making the present application. Notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 had been given to the local authority. The Applicant sought an eviction order on the basis of paragraph 1 of schedule 3 of the 2016 Act. Paragraph 3 is in the following terms:-

*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.*

In the present case, the Applicant was the sole proprietor of the Property. He was entitled to sell it. The Applicant had provided a copy an email from estate agents regarding instructing them to market the Property for sale. Whilst the Respondent had indicated that he disputed the Applicant's intention, he accepted that he was not aware of the Respondent advertising any other properties for let. He did not have any basis to suggest the Applicant did not intend to sell the Property. The Tribunal found the Applicant to be wholly credible and considered that he had demonstrated his intention to sell the property.

4.2 The Tribunal thereafter considered it reasonable to issue an eviction order. The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah* 1947 SC 245 whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the application was made. The Tribunal considered the following factors to carry significant weight in determining it to be reasonable to grant an eviction order:-

- The Applicant had been actively reducing his property portfolio following a health scare to reduce daily stress to him;
- The Applicant was suffering from anxiety and depression;
- The Property had finance secured over it which would fall payable in November 2027;
- The Applicant had attempted to find a buyer for the Property with the Respondent remaining as a sitting tenant but had been able to do so given the low rental yield;
- The Applicant had tried to assist the Respondent by providing a sum of money to be used as a tenancy deposit on another private let but the Respondent had spent this money;
- It was within the Tribunal's knowledge that that the local authority would owe duties to the Respondent with regards to rehousing under the Housing (Scotland) Act 1987.

4.3 The Tribunal accepted that the Respondent had a low income and may struggle to obtain other private accommodation but the Respondent himself had indicated that properties were being advertised at a rate affordable to him. The Respondent may well have been able to have already secured accommodation if he had used the sum generously provided by the Applicant for the purpose it was intended. Whilst the Respondent indicated he required to reside within the Hamilton area, there was no medical evidence provided demonstrating any particular housing need. Whilst the local authority may have not yet accepted a homeless application from the Respondent, they ought to do so once an eviction order was granted. At the very least, they ought to ensure temporary accommodation was secured for the Respondent to avoid him becoming homeless. Although the Respondent had accrued some rent arrears, these were being repaid and the Tribunal placed little weight on their accrual given that the Applicant did not seek an eviction order on that ground.

4.4 The Tribunal was mindful that the local authority may not be able to immediately source accommodation. The Tribunal therefore considered it appropriate to delay the enforcement of any eviction order until the beginning of October 2026 to allow the Respondent an opportunity to engage with the local authority.

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.

Alastair Houston

Legal Member/Chair

10 August 2026
Date