

Housing and Property Chamber
First-tier Tribunal for Scotland



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/25/5192

Re: Property at 10 (G/R) Clepington Street, Dundee, DD3 7PR (“the Property”)

Parties:

Mr George McKenzie, 21 Piperdam Drive, Fowlis, Dundee, DD2 5LY (“the Applicant”)

Ms Beth Dow, 10 (G/R) Clepington Street, Dundee, DD3 7PR (“the Respondent”)

Tribunal Members:

Serena Weir (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted.

Background

1. By application dated 25 November 2025 the Applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“**the Act**”) and in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“**the procedure rules**”). Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, Notice to Leave/proof of service of same, the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003/proof of service of same and copy correspondence from the Applicant’s solicitor regarding their instruction to sell the Property.
2. On 18 December 2025 the application was accepted by the Tribunal and referred for determination by the Tribunal.
3. A Case Management Discussion (“**CMD**”) was set to take place on 16 June 2026 and appropriate intimation of that hearing was given to all parties. The application, supporting papers and details of the CMD were served on the Respondent by Sheriff Officer on 12 May 2026. In terms of said notification,

the Respondent was given an opportunity to lodge written representations. None were lodged prior to the CMD.

The Case Management Discussion

4. The CMD took place on 16 June 2026 via telephone case conference. The Tribunal delayed commencement of the CMD for 5 minutes to give the Respondent an opportunity to join late but she did not do so. The Applicant was represented at the hearing by Michael Brown of Michael A Brown Solicitors. The Respondent did not take part.
5. Following introductions and introductory remarks by the Legal Member, the Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.
6. The Tribunal asked various questions of the Applicant's representative with regard to the application.
7. The Tribunal noted that the eviction was sought under and in terms of ground 1 of schedule 3 of the Act. That ground is currently in the following terms.

1. Landlord intends to sell

(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

8. The parties were the landlord and tenant of a tenancy of the Property which was a Private Residential Tenancy under and in terms of the Act.
9. A Notice to Leave had been served on the Respondent indicating that the Applicant intended to seek an eviction order based on ground 1.
10. The Applicant's representative explained that the Applicant was now in his 70s and there was no-one else able to take on the management of his property portfolio. The Applicant was now selling each of his rental properties.
11. The Applicant is entitled to sell the Property and genuinely intends to do so. The Applicant produced a copy letter from Michael A Brown Solicitors dated 15 August 2025 confirming their instruction to market the Property for sale once the Respondent has moved out. The Applicant intends to sell the

Property at market value, within 3 months of the Respondent ceasing to occupy the Property.

12. The Property was occupied by the Respondent. The Applicant had no other information about anyone else living in the Property.
13. The Applicant had attempted to contact the Respondent but had received no response. The Applicant had no information about the Respondent's state of health, employment situation or steps taken to find alternative accommodation.
14. The Tribunal Members adjourned to consider the application and, on re convening, confirmed that the Tribunal was satisfied that the eviction application was in order and that it was reasonable for the order sought to be granted today.

Findings in fact

15. The Applicant is the registered owner of the Property.
16. The Applicant and the Respondent are respectively the landlord and tenant of the Property by virtue of a Private Residential Tenancy in terms of the Act which commenced on 01 February 2024.
17. The agreed monthly rental was £420.
18. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent.
19. The date specified in the Notice to Leave as the earliest date an eviction application could be lodged with the Tribunal was specified as 17 November 2025.
20. The application was submitted to the Tribunal on 25 November 2025.
21. The Applicant is entitled to sell the Property and genuinely intends to do so. The Applicant has instructed Michael A Brown Solicitors to market the Property for sale once the Respondent has removed from the Property. The Applicant intends to sell the Property at market value, within 3 months of the Respondent ceasing to occupy the Property.
22. The Property is occupied by the Respondent.

Discussion and reasons for decision

23. The Tribunal gave careful consideration to the application and supporting documentation, the procedural background to the application and the oral representations at the CMD by the Applicant's representative.
24. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the correct period of notice had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the relevant provisions of the Act.
25. The ground for eviction under which this application was made is the ground contained in paragraph 1 of schedule 3 of the Act. The ground is that the landlord intends to sell the let Property. When the Act was originally passed, that ground of eviction was mandatory. The Tribunal was required by law to grant the eviction order if satisfied that the ground was established.
26. Since 07 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on this ground can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
27. The only matter to be determined in this application is whether it is reasonable to grant the order.

28. The order for possession was sought by the Applicant on a ground specified in the Act and properly narrated in the notice served upon the Respondent.
29. The Tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the Applicant was entitled to seek recovery of possession of the Property based upon that ground.
30. The Tribunal accepted the unchallenged evidence that the Applicant intends to sell the Property once the Respondent has ceased to occupy the Property.
31. The ground for eviction was accordingly established.
32. The Tribunal now has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the Tribunal to grant the order or decline to grant the order will be relevant. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties. This is confirmed by one of the leading English cases, *Cumming v Danson*, ([1942] 2 All ER 653 at 655) in which Lord Greene MR said, in a frequently quoted passage:

"[I]n considering reasonableness ... it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account".

33. The Respondent had not entered into the Tribunal process and the Tribunal therefore had no material before it either to contradict the Applicant's position nor to advance any reasonableness arguments on behalf of the Respondent.
34. The Tribunal accepts the unchallenged evidence of the Applicant that he is entitled to sell the Property, wishes to do so and have instructed solicitors for that purpose. There is no presumption, as a matter of law, in favour of giving primacy to the property rights of a landlord over the occupancy rights of the tenant, or vice versa.
35. The Tribunal finds that it is reasonable to grant the order.
36. The Tribunal also exercised the power within rule 17 of the procedure rules and determined that the final order should be made at the CMD.

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.

16 June 2026

Legal Member/Chair

Date