



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/25/5177

Re: Property at 18 Innes Neuk, Wallyford, East Lothian, EH21 8EW (“the Property”)

Parties:

Miss Stacey Ritchie, 29 The Flying Scotsman Way, Prestonpans, East Lothian, EH32 9GE (“the Applicant”)

Miss Kathryn Carson, 18 Innes Neuk, Wallyford, East Lothian, EH21 8EW, Miss Caitlin McLelland, 37 Glengarry Crescent, Falkirk, FK1 5UD (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Gerard Darroch (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 with execution of the order suspended for a period of two months.

In terms of section 54(1) of the 2016 Act, the private residential tenancy between the parties will end on 17 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 her 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 17 June 2026 at 10am. 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 15 May 2026 and required the Respondents to make written representations in response to the application no later than 3 June 2026.
- 3 On 4 June 2026 the Tribunal received written representations from Miss Caitlin McLelland. She confirmed that she had accepted the notice to leave and had vacated the property. She had made reasonable attempts to engage with Miss Carson but had not received any response. She submitted that it would be unequitable for her to continue to bear any responsibility in connection with the tenancy, including the obligation to pay rent. She asked for her position to be taken into account by the tribunal in consideration of the application. Miss McLelland providing supporting documents including emails between herself and the Applicant’s letting agent, Saltoun Letting.
- 4 No written representations were received from Miss Kathryn Carson.

The CMD

- 5 The CMD took place by teleconference on 17 June 2026 at 10am. Mr Jonathan Dobbie of Saltoun Letting represented the Applicant. The Respondents both joined the call. Miss McLelland was accompanied by Mr Claude Brincat and Mrs Emma Muscat, the guarantors to the tenancy agreement.
- 6 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 by email;
 - (v) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 (“section 11 notice”) and proof of delivery to the local authority; and
 - (vi) Email from the Applicant to Saltoun Letting confirming her intention to sell the property.
- 7 As a preliminary issue, the tribunal noted that Mr Brincat and Mrs Muscat had been named as Respondents in the application when they were in fact the guarantors for the tenancy. The tribunal therefore determined to remove them as parties to the application as they were not in fact tenants of the property. Mr Dobbie did not object to this.
- 8 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.

- 9 Mr Dobbie explained that the Applicant is applying for an eviction order as she requires to sell the property. The Applicant has expanded her family and requires the funds from the property to purchase a larger home. This is the only rental property the Applicant owns.
- 10 Miss McLelland confirmed that she left the property on 30 March 2026 and has returned the keys.
- 11 Miss Carson explained that she does not object to an eviction order but is seeking a couple of months to secure suitable alternative accommodation. She is currently in hospital but is hoping to return home in a few weeks. She has been in contact with the local authority and has applied for council housing. She is in the process of setting up a meeting to secure priority in terms of her health and homelessness. She has no other accommodation available. She requires ground floor accommodation with level access because of her health needs. She currently resides alone.
- 12 Mr Dobbie confirmed that he would have no objection to a suspension of the order for a couple of months. Miss McLelland advised that her main concern would be her rental obligations if the tenancy were to continue for a further period.
- 13 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

- 14 The Applicant is the owner and landlord, and the Respondents are the tenants, of the property in terms of a private residential tenancy agreement.
- 15 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. The notice to leave was emailed to the Respondent on 3 September 2025. The Respondents consented to the delivery of notices by email under the terms of the tenancy agreement between the parties.
- 16 The Applicant has given the local authority a section 11 notice at the time of making this application.
- 17 The Applicant is entitled to sell the property as the registered owner.
- 18 The Applicant intends to sell the property, or market the property for sale, within three months of the Respondent ceasing to occupy it.
- 19 The Applicant requires to sell the property to release equity and purchase a larger home for her and her family.
- 20 The first Respondent is currently in hospital. The first Respondent has applied for rehousing with the local authority.

- 21 The second Respondent vacated the property on 30 March 2026.
- 22 The first Respondent does not oppose the application for an eviction order provided she is given additional time to secure suitable alternative accommodation. The first Respondent requires ground floor accommodation with level access because of her health needs.
- 23 It is reasonable to make an eviction order.

Reasons for decision

- 24 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.
- 25 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.”*
- 26 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.
- 27 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.”

- 28 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.
- 29 The tribunal therefore determined that paragraph 1(2)(a) and (b) of schedule 3 of the 2016 Act were met.
- 30 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.
- 31 The tribunal considered the Applicant's property rights as the heritable owner, and her reasons for selling the property. The tribunal gave significant weight to the current circumstances of the Applicant, and her need to sell the property to purchase a home for her family.
- 32 The tribunal also considered the Respondents' circumstances. The tribunal noted that the second Respondent vacated the property upon receiving the notice to leave and was not therefore at any risk of homelessness. The first Respondent did not object to the application, provided she was given additional time to secure suitable accommodation with the local authority that would meet her health needs. The tribunal took into account the fact that she is currently in hospital but had been able to make contact with the local authority in this regard to progress her application for housing. The tribunal therefore considered that it would be reasonable to make an eviction order, with execution of the order suspended for a period of two months to allow the first Respondent sufficient time to secure rehousing.
- 33 The tribunal therefore 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.
- 34 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.



Legal Member/Chair

17 June 2026

Date