



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/26/0451

Re: Property at 7 Grange Path, Arbroath, DD11 4EJ (“the Property”)

Parties:

Nicoll Properties Limited, Mountboy Stables, Montrose, DD10 9TN (“the Applicant”)

Mr Ian Longmuir, 7 Grange Path, Arbroath, DD11 4EJ (“the Respondent”)

Tribunal Members:

Sarah O'Neill (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 order for recovery of possession should be granted in favour of the Applicant against the Respondent. The Tribunal delayed execution of the order until 30 October 2026.

Background

1. An application was received from Mrs Sarah Nicoll on behalf of the Applicant on 28 January 2026 under rule 109 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”) seeking recovery of the property under Ground 1 (landlord intends to sell) and Ground 12 (rent arrears) as set out in Schedule 3 of the 2016 Act.
2. Attached to the application form was a copy Notice to Leave addressed to the Respondent dated 1 October 2025 citing ground 1, and stating the date before which proceedings could not be raised to be 1 January 2026.

3. Following requests from the tribunal administration, further information was received from Mrs Sarah Nicoll on behalf of the Applicant on 19 February and 13 March 2026. This included:
 - (i) Copy private residential tenancy agreement in respect of the property between Mrs Sarah Nicoll and the Respondent which commenced on 22 October 2020.
 - (ii) Copy email from Angus Council dated 19 February 2026 acknowledging submission of a notice under section 11 of the Homelessness etc. (Scotland) Act 2003.
 - (iii) Signed statement by Mrs Sarah Nicoll stating that she had hand delivered the Notice to Leave to the Respondent on 1 October 2025.
 - (iv) Copy letter from Connelly Yeoman solicitors dated 19 February 2026, confirming that the Applicant had instructed them to sell the property.
4. On 13 March, Mrs Nicoll indicated that the Applicant wished to remove ground 12 from the application and to proceed on ground 1 only.
5. The application was accepted on 21 April 2026.
6. Notice of the case management discussion (CMD) scheduled for 2 September 2026, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the tribunal on 29 July 2026. The Respondent was invited to submit written representations by 18 August 2026.
7. No written representations were received from the Respondent in advance of the CMD.

The case management discussion

8. A CMD was held by teleconference call on 2 September 2026. Mrs Sarah Nicoll, one of the directors of the Applicant company, was present on the call and represented the Applicant.
9. The Respondent was not present or represented on the call. The tribunal delayed the start of the CMD by 10 minutes, in case the Respondent had been detained. He did not join the teleconference call, however, and no telephone calls, messages or emails had been received from him.
10. The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date and time of a case management discussion had been duly complied with. The tribunal therefore proceeded with the CMD in the absence of the Respondent.

Preliminary issues

11. The tribunal considered two preliminary issues. Firstly, it noted that, while the property was owned by the Applicant company, the tenancy agreement named Mrs Nicoll as the landlord. Mr Grant Nicoll was the registered landlords. Mrs Nicoll confirmed that she and Mr Nicoll, her husband, are the directors of the Applicant company, and that Mr Nicoll was aware of the tribunal proceedings.
12. The tribunal also noted that the tenancy agreement provided for the service of notices to take place by email. The Notice to Leave had however been personally delivered to the Respondent by Mrs Nicoll. Mrs Nicoll said that she thought it was better to deliver the Notice personally so that the Respondent had a paper copy. The Respondent had received the Notice. He had contacted her after receiving the Notice and asked if he could stay for an additional month following the three months' notice.

The Applicant's submissions

13. Mrs Nicoll asked the tribunal to grant an eviction order in favour of the Applicant. She said that the Respondent was still living in the property. Her husband had spoken to him in the last week or two.
14. She confirmed that the Applicant intended to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it, were an eviction order to be granted.
15. She and her husband had a total of five rental properties owned through the Applicant company. They had already sold three of these after the tenants had vacated. They planned to sell the others, including this one, as soon as possible, as they no longer wished to be landlords.
16. She had limited information about the Respondent's circumstances. When he had first moved in, he had lived with a partner, but she believed he now lives there alone. He has children, but they do not live with him most of the time. She did not know how many children he has or what ages they are. She said that she thought the Respondent worked full time on a farm, but she was not certain about this.
17. The Respondent had not initially replied to her emails after receiving the Notice to Leave, but after the three months' notice ended, he had asked if he could stay for another month. He had stopped paying the rent for a few months from December 2025- February 2026, but had later repaid the arrears and had started paying the rent again. He had been in contact with the council previously but may need to reapply now that his rent arrears had been cleared. She believed that he had also

been enquiring recently about another property, but assumed that he had been unsuccessful in securing it.

Findings in fact

18. The tribunal made the following findings in fact:

- The Applicant is the registered owner of the property. It is therefore entitled to sell the property.
- Mr Grant Nicoll, one of the two directors of the Applicant company, is the registered landlord for the property.
- There is a private residential tenancy agreement in place between Mrs Sarah Nicoll, the other director of the Applicant company, and the Respondent, which commenced on 22 October 2020.
- The Notice to Leave was validly served on the Respondent by personal service on 1 October 2025.
- The Applicant sent a valid notice to Angus Council under section 11 of the Homelessness etc. (Scotland) Act 2003 on 18 February 2026.
- The Applicant previously owned four other rental properties, three of which have been sold.
- The Applicant intends to sell the property or put it up for sale within 3 months of the Respondent ceasing to occupy it.
- The Respondent lives in the property alone.
- The property is a three bedroomed house.

Reasons for decision

19. The tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties.

20. The tribunal considered whether the legal requirements of Ground 1, as set out in Schedule 3 of the 2016 Act (as amended), had been met. Ground 1 states:

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 subparagraph (1) applies if the landlord—

(a) is entitled to sell the let property, and

(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.

21. The tribunal determined that as the registered owner of the property, the Applicant is entitled to sell the property.
22. The tribunal then considered whether the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it.
23. The tribunal had regard to the letter from Connolly Yeaman solicitors confirming that the Applicant had instructed them to market the property. The tribunal was satisfied that this is evidence tending to show that the Applicant has the intention set out in sub-paragraph 2(b) of Ground 1.
24. The tribunal also had regard to the submissions by Mrs Nicoll. It found her evidence credible with regard to the Applicant's intention to sell the property.
25. The tribunal noted that the Respondent had not opposed the application or otherwise indicated that he disputed whether Ground 1 had been met.
26. Having considered all of this, the tribunal determined that the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it.

Reasonableness

27. The tribunal then considered whether it was reasonable to make an order for recovery of possession. In doing so, it took into account all of the circumstances of the case.

28. The tribunal considered the Applicant's circumstances. While the Applicant company had owned four other rental properties, three of these had been sold and it was the intention of its directors to sell the two remaining properties, including this one, as soon as possible.
29. As the legal owner of the property, the Applicant has the legal right to use and dispose of it as it sees fit, within the confines of the law.
30. The tribunal noted that the Respondent had been living in the property for almost six years. He was facing the loss of his home through no fault of his own. While he appeared to have fallen into rent arrears after the Notice to Leave was served, he had now paid these back.
31. The Respondent had been aware for at least 11 months that the Applicant wished to recover the property, however. It seemed that he had been looking for alternative accommodation and had been in contact with the council about this.
32. The Respondent had not opposed the application. He had submitted no written representations and had not attended the CMD.
33. Having carefully considered all of the evidence and all of the circumstances of the case as set out above, the tribunal considered that on balance it was reasonable to grant an eviction order.
34. In reaching its decision, the tribunal gave particular weight to the Respondent's lack of opposition to the application.
35. The tribunal therefore determined that an order for recovery of possession should be granted in favour of the Applicant.
36. In making the order, the tribunal sought Mrs Nicoll's views on the possibility of delaying execution of the order in terms of rule 16A of the 2017 rules, to give the Respondent more time to find alternative accommodation.
37. Mrs Nicoll said that she was agreeable to delaying execution of the order until the end of October 2026.
38. The tribunal therefore decided that it would be reasonable in all the circumstances to delay execution of the order for a month until 30 October 2026.

Decision

The tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the property. The tribunal delayed execution of the order until 30 October 2026.

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.

Sarah O'Neill

02 September 2026

Legal Member/Chair

Date