



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/5027

Re: Property at 21 Garrallan, Kilwinning, KA13 6LU (“the Property”)

Parties:

Mr Amer Hussain, 17 Merrick View, Stewarton, Kilmarnock, KA3 5EU (“the Applicant”)

Miss Alison Natalie Macdonald, 21 Garrallan, Kilwinning, KA13 6LU (“the Respondent”)

Tribunal Members:

Alastair Houston (Legal Member) and David Fotheringham (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, that he wished to sell the Property. Following further requests by the Tribunal for information, the application was accompanied by copies of the tenancy agreement, the notice to leave given to the Respondent, notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 and a letter from an estate agent regarding the potential sale of the Property.
- 1.2 No written representations had been received from the Respondent in advance of the Case Management Discussion.

2. The Case Management Discussion

- 2.1 The Case Management Discussion took place on 7 August 2026 by teleconference. Initially, nobody was in attendance however, following efforts by the Tribunal clerk to reach the parties, the Applicant attended personally. The Respondent was not able to be contacted and did not attend nor was she represented.
- 2.2 The Applicant confirmed that the application was insisted upon. The Tribunal noted that intimation of the application and Case Management Discussion had been made to the Respondent by Sheriff Officers. Accordingly, the Tribunal considered it appropriate to proceed in her absence as permitted by rule 29 of the Chamber rules.
- 2.3 The Tribunal first addressed the issue of the notice to leave. The Applicant accepted that the date entered at part 4 was incorrect. He did not understand how he made a miscalculation as was aware that he required to provide the Respondent with 84 days notice. He did not make the application to the Tribunal until 12 November 2025 or shortly thereafter.
- 2.4 The Applicant confirmed he wished to sell the Property. He was suffering from potentially stress-related health conditions. His doctor had recommended he reduce stress. He owned ten rental properties and had made the decision to sell those with outstanding finance, reducing the size of his portfolio, which he believed would reduce stress caused to him. He understood the Respondent to reside at the Property with a young child and, potentially, a partner who was not a tenant. He had difficulties contacting the Respondent but had spoken to her after the process began and believed that she was content to move from the Property but required an eviction order to be granted in order to obtain priority for social housing. Rent was received from the Respondent through Universal Credit and was up to date.
- 2.5 At the conclusion of the Case Management Discussion, the Tribunal indicated it was prepared to grant the order sought.

3. Reasons For Decision

- 3.1 The notice to leave given to the Respondent contained an error in that the date specified in part 4 was 6 October 2026. It ought to have been 12 October 2026 given that it was posted to the Respondent on 17 July 2026. The Tribunal considered that it was appropriate to treat this as a minor error in terms of section 73(1) of the 2016 Act which did not affect its validity, following the approach of the Upper Tribunal in *Halcrow v Davies & Hunter* (UTS/AP/25/0019). The period of notice given was only six days short, a relatively minor period in the context of the 84 days which ought to have been given and, in any case, the Applicant did not make the application until a further month had elapsed following the end of the

correct notice period. The Respondent was not deprived of any part of the notice period.

3.2 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 Applicants had provided a copy of a letter from an estate agent concerning the potential sale of the Property. The Tribunal considered that he had demonstrated his intention to sell.

3.3 The Tribunal thereafter considered it reasonable to issue an eviction order. The Respondent did not attend the Case Management Discussion nor lodge any written representations. The application was, in effect, not opposed. The Applicant had articulated his reasons for selling the Property. He understood the Respondent to be seeking a move to social housing. In the absence of any further information as to why it would not be so reasonable, the Tribunal granted the order sought.

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

7 August 2026
Date