

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 51 of the Private Housing (Tenancies) (Scotland) Act 2016.

Chamber Ref: FTS/HPC/EV/26/1810

Re: Property at 22 Rowanhill Close, Prestonpans, East Lothian, EH32 0SY (“the Property”)

Parties:

Mrs Susan Johnstone, Mr Paul Johnstone, 27 Castle Terrace, Prestonpans, East Lothian, EH32 0EP (“the Applicant”)

Mr Paul Greig, Mrs Iwona Greig, 22 Rowanhill Close, Prestonpans, East Lothian, EH32 0SY (“the Respondent”)

Tribunal Members:

Robert MacDonald (Legal Member) and Mary Lyden (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. In terms of section 54(1) of the 2016 Act, the Private Residential Tenancy between the parties will end on 4th November 2026.

1. This is an application dated 23rd April 2026 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 and Procedure) 2017 (“the Rules”). The Applicants rely upon Ground 1 of Schedule 3 to the 2016 Act as the ground for eviction, namely that the Applicants were entitled to sell the let property, and intend to sell it for market value, or at least put it up for sale within three months of the tenant ceasing to occupy it.
2. The application was accepted by the Tribunal as valid on 14th May 2026 and referred to a Tribunal for determination. A Case Management Discussion was set down to take place on 5th October 2026 by teleconference. The Tribunal gave notice of the Case Management Discussion to the parties in accordance

with Rule 17(2) of the rules. The notice was served on the Respondents by Sheriff Officers on 12th August 2026.

3. The Tribunal invited the Respondents to make written representations in response to the application to the Tribunal no later than 29th August 2026.
4. The Case Management Discussion took place on 5th October 2026 at 2pm. The Applicants and the Respondents were all personally present.
5. The Tribunal had the following documents before it:-
 - a. Form E application form;
 - b. Land Certificate confirming that the property was owned by the Applicants;
 - c. Evidence that the Applicants were registered as landlords;
 - d. A copy of a Private Residential Tenancy Agreement entered into between the parties;
 - e. A copy of the Notice to Leave and proof of delivery of the Notice on the Respondents by email dated 10th December 2025;
 - f. Copy Section 11 Notice in terms of the Homelessness etc. (Scotland) Act 2003 and proof of delivery to East Lothian Council on 23rd April 2026;
 - g. Written submission by Mrs Greig including correspondence with East Lothian Council;
 - h. Written submission by Mr Greig;
 - i. Personal statement by the Applicants dated 23rd April 2026;
 - j. Confirmation from Drummond Miller Solicitors and Estate Agents that they have been instructed in the sale of the property.
 - k. A letter from West Bromwich Mortgage Company Limited dated 2nd February 2026.
6. The Tribunal explained to the parties the purpose of the Case Management Discussion and that it was open to the Tribunal to make a final decision at a Case Management Discussion if the facts were sufficiently clear to the Tribunal.
7. The Tribunal heard submissions from Mrs Johnston on behalf of herself and her husband, and then from Mrs and Mr Greig individually.
8. Mrs Johnston explained to the Tribunal that although the current Private Residential Tenancy Agreement had been entered into between the parties on 4th December 2025, the Respondents had in fact been tenants of Mr and Mrs Johnston since 2008. She described them as great tenants. She told the Tribunal that the Applicants had purchased the property with the assistance of an interest only mortgage from West Bromwich Mortgage Company Limited. Mrs Johnston referred the Tribunal to a letter from the mortgage company dated 2nd February 2026 and advised the Tribunal that their mortgage term was due to come to an end on 31st January 2027. This meant that the outstanding balance required to be paid in full on that date. The Applicants were getting older. Mr Johnston was 63 years of age and the Applicant's had decided that they did not want to take on the financial burden of a new mortgage in 2027. They would need to sell the property to repay the mortgage. Their intention if they recovered possession was to place the property on the market for sale within 3 months with a view to repaying the mortgage before the mortgage term ended. This was their only rental property.

9. Mrs Greig advised the Tribunal that she had been in contact with East Lothian Council regarding being re-housed. She understood why the Applicants wanted to sell the property and was not opposed to the application for an Eviction Order. She was hopeful that the Local Authority would give her a four bedroom property. She currently lived in the property with her three sons who were aged 13, 15 and 16. She had lodged correspondence from the Local Authority confirming that they were aware of her housing situation. She advised the Tribunal that her housing application had been awarded category B with an additional fifty points. She did not consider that extending the period for eviction from the usual thirty days would assist her in her endeavour in finding new accommodation.
10. Mr Greig addressed the Tribunal. He had separated from Mrs Greig. He no longer lived in the property and currently lived with his mother in Macmerry. He sometimes stayed at the property while looking after the children. He did not oppose the application. He also had been in contact with the Local Authority regarding rehousing.
11. The Tribunal adjourned the Case Management Discussion to deliberate outwith the presence of the parties. After a brief adjournment, the Tribunal resumed the Case Management Discussion and confirmed the outcome.

Findings in Fact and Law

12. The Applicants are the owners of the property in terms of a Land Certificate registered in the Land Register of Scotland under title number ELN374. They are the landlords and the Respondents are the tenants of the property in terms of a Private Residential Tenancy Agreement which commenced on 4th December 2025.
13. The Applicant's sent a Notice to Leave as defined by Section 62 of the 2016 Act to the Respondents by email on 10th December 2025. The terms of the Private Residential Agreement between the parties provided that service of such Notices could be made by email. In terms of the Notice, the Respondents were advised that an application would not be submitted to the Tribunal before 7th March 2026.
14. The Applicants submitted an application to the Tribunal on 23rd April 2026.
15. A Notice in terms of Section 11 of the Homelessness etc. (Scotland) Act was sent by the Applicants to East Lothian Council on 23rd April 2026.
16. The Applicants purchased the property with a mortgage from West Bromwich Mortgage Company Limited. The mortgage was an interest only mortgage and the term of the mortgage would come to an end on 31st January 2027.
17. The Applicants do not have any other rental properties.
18. The Applicants do not wish to take on the financial responsibility of a new mortgage when the existing mortgage comes to the end of its term.
19. The Applicants are entitled to sell the property.
20. The Applicants have asked Drummond Miller Solicitors and Estate Agents to market the property for them once they recover possession.
21. The Applicants intend to sell the property for market value, or at least put it up for sale within three months of the Respondents ceasing to occupy it
22. The Respondents have separated.
23. The Second Respondent continues to reside in the property with three children aged 16, 15 and 13.

24. The Respondent has applied to East Lothian Council to be re-housed.
25. The First Respondent has left the property and primarily resides with his mother, although sometimes stays at the property to look after the children.
26. Neither Respondent opposes the order sought by the Applicants.
27. It is reasonable in all the circumstances to make an Eviction Order.

Reasons for Decision

28. The Tribunal was satisfied having considered all the documentary evidence and the submissions from the parties that it had sufficient information before it to make the relevant findings in fact and to enable it to reach a decision on this application. The Tribunal accepted the documentary evidence and the submissions from the Applicants and from the Respondents.
29. The Tribunal was satisfied that the Applicants had complied with the statutory requirements in relation to service of a Notice to Leave on the Respondents.
30. The Tribunal was satisfied that the Applicants mortgage required to be redeemed at the end of January 2027.
31. The Tribunal was satisfied that the Applicants, in the event they recovered possession of the property, intended to place the property on the market for sale within three months so that they could pay off the existing mortgage within its term.
32. The Tribunal was satisfied that the Applicants were entitled to sell the property.
33. The Tribunal considered the Respondent's circumstances. Neither Respondent opposed the order sought. The First Respondent was living on a temporary basis with his mother and was hoping at some stage to be re-housed by the Local Authority. The Second Respondent remained resident within the property together with the three children but was in discussions with the Local Authority about being re-housed. She did not think that an extension of the period prior to eviction would assist.
34. The Tribunal considered whether it was reasonable to make an Eviction Order in account of the information available to it. The Tribunal required to identify the factors relevant to reasonableness and to determine how much should be applied to them. The Tribunal attached considerable weight to the fact that the Applicants need to redeem their mortgage by 31st January 2027. They also attached considerable weight to the fact that neither Respondent opposed the application.
35. Having considered the factors relevant to reasonableness, the Tribunal concluded that it was reasonable for an order for eviction to be granted. The Tribunal were satisfied the provisions of paragraph 1 of schedule 3 to the 2016 Act had been met in this case.
36. The decision of the Tribunal was unanimous.

Decision

37. The Tribunal grants an order for eviction of the Respondents.

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.

Robert MacDonald

Robert MacDonald

5.10.2026

Legal Member/Chair

Date