



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/26/1711

Re: Property at Top Floor, 94 Summerhill Drive, Aberdeen, AB15 6TZ (“the Property”)

Parties:

Ms Gillian Rae, 1 Cunningham Watt Road, Stewarton, Kilmarnock, East Ayrshire, KA3 5EY (“the Applicant”)

Ms Tracey Attram, Top Floor, 94 Summerhill Drive, Aberdeen, AB15 6TZ (“the Respondent”)

Tribunal Members:

Robert MacDonald (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 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 21st October 2026

Background

1. The Applicant made an application dated 17th 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 (Procedure) Regulations 2017 (“The Rules”). The Applicant relied upon Ground 1 of Schedule 3 of the Act as the ground for eviction, namely that the Applicant intended to sell the property.
2. On 7th May 2026 the application was accepted by the Tribunal and referred for determination by the Tribunal.

3. A Case Management Discussion was scheduled for 21st September 2026. The Tribunal gave notice of the Case Management Discussion to the parties in accordance with Rule 17(2) of the Rules by letter dated 8th August 2026. Intimation was made on the Respondent by sheriff officers who served this on her on 10th August 2026 at the property by letterbox service. The Tribunal invited the Respondent to make any submissions in writing to the Tribunal by 29th August 2026. No submissions were received by the Tribunal from the Respondent.

Case Management Discussion

4. The Case Management Discussion took place on 22nd September 2026 at 2pm. The Applicant was represented by Mr. Martin Urquhart. There was no appearance on or on behalf of the Respondent. The Tribunal was satisfied that the Respondent had received notice of the Case Management Discussion. The hearing did not start until 2.10pm and the Respondent had ample time dial in to the Case Management Discussion but did not do so, nor did she attempt to do so during the course of the discussion. The Tribunal took the view in all the circumstances it was fair and appropriate to continue with the Case Management Discussion in her absence.
5. At the Case Management Discussion, the Tribunal had documentation before it including: -
 - a. Application form E;
 - b. A copy of the Private Residential Tenancy Agreement between the parties commencing 16th September 2021;
 - c. A copy of a Notice to Leave dated 8th January 2026 and proof of delivery of the said notice on the Respondent by email on that date.
 - d. A copy Notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 and evidence of service on Aberdeen City Council dated 17th April 2026;
 - e. A statement by the Applicant.

Applicants' submissions

6. The Tribunal heard submissions from Mr. Urquhart on behalf of the Applicant. He advised the Tribunal that the Applicant wished to sell the property to enable her to purchase property in the Kilmarnock area where she is employed. She wanted to release equity to assist her in doing so. She also wanted to avoid paying for the Additional Dwelling Supplement. There was now significant rent arrears as rent had not been paid since the end of March 2026. The Respondent's failure to pay rent on this occasion coincided with the expiry of

the period of notice. Mr. Urquhart pointed out that there had been previous proceedings before the Tribunal involving the parties and this property and that the Tribunal had previously given the Respondent an opportunity to continue living in the property and to pay her rent on time. Mr. Urquhart advised the Tribunal that there had been difficulty in communicating with her in the past. He had however today received an email from the Respondent which indicated that in principle she was hoping to be out of the property by 4th October 2026. There was some correspondence lodged between DJ Alexander and Peterkins Solicitors and Estate Agents Aberdeen about the property. While Mr. Urquhart understood that they had been engaged to try and deal with the estate agency for the property, he did not have a letter of engagement from them to put before the Tribunal. As far as reasonableness was concerned Mr. Urquhart reminded the Tribunal that there had been previous proceedings between the parties and referred to the fact that the Respondent had not paid rent since March 2026. The current rent arrears were £2625.

7. The Tribunal noted that the Applicant, while not present on the call, was available that afternoon and advised Mr. Urquhart that it would be helpful to hear from her. The Tribunal adjourned for a discussion and to allow Mr. Urquhart to contact the Applicant. When the Applicant was available, she confirmed to the Tribunal that she had chain of email correspondence with Peterkins which demonstrated that they were prepared to deal with the estate agency of the property if she was able to recover possession. She confirmed that she did not own any other properties in the United Kingdom. She was currently living with her parents in Kilmarnock and wanted to sell the property in Aberdeen so that she could buy her own property in the Kilmarnock area. She had experienced a change of circumstances in her personal life which meant that matters were now urgent. The Tribunal noted the Applicant and Mr. Urquhart could provide the Tribunal with the additional paperwork referred to.
8. The Tribunal advised the Applicant and Mr. Urquhart that they would consider the submissions made and the documentation lodged and issue a decision once the additional documentation requested from the Applicant had been provided to the Tribunal.
9. Mr. Urquhart subsequently emailed the Tribunal and provided a copy of the email he had received from the Respondent on 21st of September 2026, and the email chain between the Applicant and Peterkins Solicitors and Estate Agents.
10. Having considered all the documentation and the submissions from the Applicant and her agent the Tribunal were satisfied that there was sufficient evidence available to enable the Tribunal to make a decision following the Case Management Discussion.

Findings in Fact and Law

11. The Applicant is the owner of the property in terms of land certificate ABN382.

12. The Applicant is the landlord, and the Respondent is the tenant of the property in terms of a Private Residential Tenancy Agreement which commenced on 16th September 2021.
13. Clause four of the Private Residential Tenancy Agreement made provision for service of notices and other documents to be made in writing using the email addresses set out in clause one.
14. The Applicant's agent sent a Notice to Leave as defined by Section 62 of the 2016 Act dated 8th January 2026 to the Respondents at the email address contained in clause one of the Private Residential Tenancy Agreement.
15. In terms of the notice, which relied on Ground 1, the Respondent was advised that an application might be submitted to the Tribunal after 5th April 2026.
16. The Application was lodged with the Tribunal on 17th April 2026.
17. A notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 was sent on behalf of the Applicant to Aberdeen Council on 17th April 2026.
18. The Applicant has engaged Peterkins Solicitors and Estate Agents Aberdeen to deal with the marketing of the property once vacant possession was obtained.
19. 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.
20. The Applicant is entitled to sell the property.
21. As at the date of the Case Management Discussion, the Respondent was in arrears of rent of £2625.
22. The Respondent had indicated her intention to the letting agent vacate the property.
23. The Tribunal was satisfied that the provisions of Paragraph 1 of Schedule 3 of the 2016 Act had been met in this case.
24. Having regard to the factors relevant to reasonableness, the Tribunal concluded that it was reasonable for an order for eviction to be granted.

25. There was no information before the Tribunal that led the Tribunal to consider that the Respondent should be given an extension of time before the order could be enforced.

Reasons for Decision

26. The Tribunal was satisfied that the terms of Ground 1 had been established by the Applicant. It noted that there was evidence that the Applicant wished to sell the property and that solicitors had been engaged to market it once vacant possession had been obtained.
27. The Applicant was the owner of the property and therefore was entitled to sell it.
28. There were significant rent arrears.
29. The applicant had had a change in her personal circumstances and wanted to be able to buy a property in Kilmarnock near where she is employed.
30. The Tribunal considered the Respondent's circumstances insofar as they were known to the Tribunal.
31. The Respondent had emailed the letting agents on 21st September 2026 advising them that she should be out of the property by 4th October 2026 and would hand the keys in to them.
32. The Tribunal considered whether it was reasonable to make an Eviction Order on account of the information available to it, which required the Tribunal to identify the factors relevant to issues of reasonableness and to determine how much weight should be applied to them.
33. The Tribunal attached considerable weight to the fact the Respondent had not engaged with the Tribunal, and she had not opposed the Application, as well as to the change in the Applicants' circumstances and the fact that significant rent arrears had now accumulated.
34. The decision of the Tribunal was unanimous.

Decision

35. The Tribunal grants an order for possession of the property.

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

24.09.2026

Legal Member/Chair

Date