



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

Chamber Ref: FTS/HPC/EV/25/1965

Re: Property at Flat 2/1, 6 Castle Street, Paisley, PA1 2JW (“the Property”)

Parties:

Mrs Ann Marie Herre, 36 Molesey Road, West Molesey, KT8 2HF (“the Applicant”)

Mr Philip Dierikx, Flat 2/1, 6 Castle Street, Paisley, PA1 2JW (“the Respondent”)

Tribunal Members:

Robert MacDonald (Legal Member) and Elaine Munroe (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 7th November 2026.

Background and previous procedure

1. The Applicant made an application to the Tribunal dated 8th May 2025 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 to the Act as the ground for eviction, namely that the Applicant intended to sell the let property.
2. On 17th July 2025, the application was accepted and referred for determination by the Tribunal.
3. A Case Management Discussion was scheduled for 11th December 2025. Intimation of the Case Management Discussion was made to the Applicant’s

representative on 22nd October 2025 and to the Respondent by Sheriff Officers on 23rd October 2025. At the Case Management Discussion on 11th December 2025, there was no appearance by or on behalf of the Applicant or the Respondent. The Tribunal accordingly dismissed the application in terms of Rule 27(2)(b) of the Rules.

4. On 22nd December 2025, the Applicants representative submitted an application to the Tribunal for recall of the decision to dismiss the application. Intimation of the application to recall the decision was made on the Respondent. On 23rd January 2026, the Tribunal recalled the decision to dismiss the application. A fresh Case Management Discussion was fixed for 21st May 2026.
5. At the Case Management Discussion on 21st May 2026, the Applicant was represented by Ms. Laura Gordon of 24/7 Letting. There was no appearance by or on behalf of the Respondent. The Tribunal were not satisfied that intimation of the Case Management Discussion had been received by the Respondent. Further information was also sought from the Applicant in relation to her intention to sell the property. The Tribunal accordingly adjourned the application to a further Case Management Discussion.

Case Management Discussion

6. A Case Management Discussion took place on 8th October 2026 at 10am. Intimation of the said discussion was made on the Respondent by Sheriff Officers on 18th August 2026. At the Case Management Discussion, the Applicant was present together with her representative, Ms. Gordon. There was no appearance by or on behalf of the Respondent.
7. The Tribunal were satisfied at the Case Management Discussion that they should proceed with the Discussion in the absence of the Respondent.
8. At the Case Management Discussion, the Tribunal had documentation before it including:-
 - a. Application Form E;
 - b. A copy of a Private Residential Tenancy Agreement between the parties dated 5th July 2023;
 - c. A copy Notice to Leave and proof of delivery of the said Notice on the Respondent by email on 6th February 2025;
 - d. A copy Notice in terms of Section 11 of the Homelessness etc. (Scotland) Act 2003 and evidence of service of the said Notice on Renfrewshire Council on 8th May 2025;
 - e. Confirmation from 24.7 Property Sales that they would act as estate agents in the sale of the said property.
9. The Tribunal heard submission from Ms. Gordon, supplemented by further information from Mrs Herre. The Applicants position was that this was her only rental property in Scotland. She wanted to sell it. It had been a poor investment. She had purchased it sight unseen and it required significant work. The tenancy had been difficult to manage because of the Respondent's mental health problems. He frequently refused access to the property. The Applicant had been unable to get access to carry out essential repairs or to refurbish the

property as planned. The Applicant had finally obtained entry to the property about a month ago. She confirmed that the condition of the property remained poor. The Respondent was apparently now living in a hotel in temporary accommodation. If she recovered possession the Applicant intended to instruct tradesmen to replace the kitchen and bathroom and redecorate the property. She intended to have it placed on the market for sale within three months of recovering possession. The Respondent was waiting to be rehoused by the Local Authority. He had lived in the property by himself. It is a two bedroom flat. At the time of the Applicant's visit, it was in a poor condition, with one of the bedrooms being full of rubbish.

10. The Tribunal briefly adjourned to discuss the application and submissions outwith the presence of the Applicant and her agent before resuming and confirming their decision.
11. The Tribunal were satisfied that there was sufficient information available to them to make a decision in this case.

Findings in Fact and Law

12. The Applicant is a director and shareholder in a Limited Company, AA Crest Properties Limited, company number 11513269, ("the limited company").
13. The limited company is the heritable proprietor of the property in terms of a Land Certificate registered in the Land Register of Scotland under title number REN67987.
14. The Applicant is a director of, and a shareholder in the limited company.
15. The Applicant is the landlord, and the Respondent is the tenant of the property in terms of a Private Residential Tenancy Agreement entered into between the parties on 23rd July 2023.
16. The Private Residential Tenancy Agreement between the parties provided that Notices to Leave could be sent by email.
17. The Applicant's agent sent a Notice to Leave as defined by Section 62 of the 2016 Act dated 6th February 2025 to the Respondent by email on 6th February 2025.
18. In terms of the Notice, which relied on Ground 1, the Respondent was advised that an application might be submitted to the Tribunal after 4th May 2025.
19. A Notice in terms of Section 11 of the Homelessness etc. (Scotland) Act 2003 was sent by the Applicant's agent to Renfrewshire Council on 8th May 2025.
20. An application was made to the Tribunal on 8th May 2025 for recovery of possession of the property.
21. The Applicant has engaged a firm of estate agents to deal with the marketing of the property once she obtains vacant possession.
22. The Applicant intends to sell the property for market value or at least put it up for sale within three months of the Respondent ceasing to occupy it.
23. The Applicant is entitled to sell the property.
24. The property was in a poor condition and required upgrading.
25. The applicant had had difficulty in obtaining access to the property to carry out any work while the Respondent lived there.

26. The Respondent is now not staying in the property but is in hotel accommodation.
27. Having regard to the factors relevant to reasonableness, the Tribunal concluded that it was reasonable for an order for eviction to be granted. The Tribunal was satisfied that the provisions of paragraph 1 of Schedule 3 of the 2016 Act had been met in this case.
28. There was no information before the Tribunal that led the Tribunal to consider that the Respondent should be given an extended period of time before the order could be enforced.

Reasons for decision

29. The Tribunal noted that there was evidence that the Applicant wanted to sell the property and that estate agents had been engaged to market it. Remedial work and refurbishment were going to require to be done to the property before it could be marketed but her intention was to have it placed on the market for sale within three months of recovering possession.
30. The Tribunal required to consider whether it was reasonable to make an Eviction Order on account of the information available to it. The Tribunal required to identify the factors relevant to the issues of reasonableness and determine how much weight should be attached to them.
31. The Tribunal attached considerable weight to the fact the Respondent did not oppose the order being granted and that he did not appear to have been living in the property. The Tribunal also considered the Applicant's submission that the property was in poor repair and needing refurbished.
32. The decision of the Tribunal was unanimous.

Decision

33. 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

08.10.2026

Legal Member/Chair

Date

