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 Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act")

Chamber Ref: FTS/HPC/EV/26/1149

Re: Property at 56 Melrose Road, Greenfaulds, Cumbernauld, G67 4BA ("the Property")

Parties:

Mr Peter Donnelly, 24 Glen Luss Gardens, Craigmarloch, Cumbernauld, G68 4BA ("the Applicant")

Ms Roseann McGowan, 56 Melrose Road, Greenfaulds, Cumbernauld, G67 4BA ("the Respondent")

Tribunal Members:

Craig Chisholm (Legal Member) and Gerard Darroch (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 should be granted.

Background

1. By application dated 11 March 2026, the Applicant sought an order under section 51 of the 2016 Act and in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 ("the 2017 Rules"). On 11 May 2026, the application was accepted by the Tribunal and referred for determination.

2. A Case Management Discussion (CMD) took place on 9 October 2026 *via* telephone conference call. The Applicant was personally present. The Respondent was not present or represented.

3. Appropriate intimation of that CMD was given to all parties.

The CMD

4. The Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.

5. The Tribunal asked questions of the Applicant in relation to the application.

6. The Applicant confirmed his wish for an eviction order to be made.

Findings in Fact

7. The Applicant owns the Property.

8. The Applicant and Respondent are respectively the landlord and tenant who entered into a Private Residential Tenancy Agreement (PRT) in terms of the 2016 Act for the Property, commencing in January 2020.

9. The agreed rent was £425 per month, increased to £575 per month.

10. On 28 November 2025, the Applicant served upon the Respondent a Notice to Leave (NTL) as required by the 2016 Act. Service was effected by Recorded Delivery on 28 November 2025. The notice informed the Respondent that the Applicant wished to seek recovery of possession of the Property using the provisions of the 2016 Act. The notice set out one of the grounds contained in Schedule 3 of the 2016 Act, namely ground 1 (that the landlord intends to sell the let property). The NTL was correctly drafted in accordance with the requirements of the 2016 Act and gave the appropriate notice period as required in law.

11. The Applicant had complied with the requirements of section 56 of the 2016 Act by serving a Section 11 Notice on 17 April 2026. The Section 11 Notice and proof of its delivery on 17 April 2026 had been lodged as part of the application.

12. Having regard to the submissions from the Applicant, the Tribunal is satisfied that it is reasonable to issue an eviction order on account of the fact that the Applicant intends to sell the Property, is entitled to do so, and intends to sell it, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it.

13. The Applicant had marketed the Property for sale, initially with a sitting tenant in an effort not to inconvenience the Respondent by evicting her. Submissions

were made that the Property had been on the market with a sitting tenant since May 2025 and had been offered for sale at £8,000 less than market value. Correspondence lodged by an estate agent confirmed this. Despite these efforts and the reduced price, the Property had failed to attract a buyer. The Applicant had taken advice that the Property would achieve the best price if sold with vacant possession.

14. The Applicant provided further submissions that his own health had deteriorated in the past few years.

15. The basis for an eviction order on ground 1 was thus established.

Reason for Decision

16. The eviction order sought by the Applicant was based on a ground specified in the 2016 Act and properly narrated in the notice served on the Respondent. The Tribunal was satisfied that the notice had been served in accordance with the terms of the 2016 Act and that the Applicant was entitled to seek recovery of possession based upon that ground.

17. The Tribunal accepted the unchallenged evidence presented by the Applicant with regard to the reasons for selling the Property and was thus satisfied that he intended to sell the Property in line with the requirements of the 2016 Act and that it was reasonable to grant eviction on that basis.

Decision

18. The ground for eviction based on the landlord intending to sell the Property was accordingly established.

19. The Tribunal has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the Tribunal to grant the order or decline to grant the order will be relevant. This is confirmed by one of the leading English cases, *Cumming v Danson* [1942] 2 All ER 653 at 655, where Lord Greene MR said:

> *"In considering reasonableness... it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusions giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive,*

but it is quite wrong for him to exclude from his consideration matters which he ought to take into account."

20. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.

21. In this case, the Tribunal finds that it is reasonable to grant the order. The balance of reasonableness is weighted in favour of the Applicant.

Right of Appeal

In terms of Section 46 of the Tribunals (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.

Craig Chisholm

16 October 2026

Legal Member/Chair **Date**