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/26/1521

Re: Property at 24 Dunbar Place, Kirkcaldy, KY2 5QS ("the Property")

Parties:

Ms Claire Quinn, 54 Fergus Square, Abroath, DD1 3DW ("the Applicant")

Mr Steven McGibbon, 24 Dunbar Place, Kirkcaldy, KY2 5QS ("the Respondent")

Tribunal Members:

Lindsay Paterson (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 Applicant intends to sell the Property and that it is reasonable for an order for eviction to be granted.

Background

1. By application dated 08 April 2026 the Applicant sought an eviction order under Section 51 and Ground 1 of Schedule 3 of the 2016 Act and in terms of Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the procedure rules"). A section 11 notice, tenancy agreement, notice to leave with proof of service and email correspondence between the Applicant and an estate agent were all lodged in support of the application, prior to the application being accepted on 05 June 2026.
2. A copy of the application was served on the Respondent by sheriff officer on 18 August 2026 and parties were notified that a case management discussion ("CMD") would take place by teleconference on 03 November 2026 at 10am.
3. The Respondent was invited to lodge a written response to the application by 05 September 2026 but failed to do so.

4. On 26 October 2026 the Applicant provided, via her representative, further information including a rent statement dated 26 October 2026, showing the Respondent to be in rent arrears and a statement from the Applicant providing details of her reasons for wishing to sell the property. This further information was sent to the Respondent on 27 October 2026.

The Case Management Discussion

5. The case called for a CMD by way of teleconference on 03 November 2026 at 10am.
6. The Applicant attended the CMD. Her representative did not attend. The Applicant had agreed with her representative that she would represent herself at the CMD.
7. The Respondent did not attend the CMD. The Tribunal clerk attempted to reach the Respondent by telephone but was not able to reach him.
8. The Applicant told the Tribunal that she orginally lived in the Property herself before renting it out. She does not own any other properties.
9. The Applicant told the Tribunal that she now lives with her partner and their 4 year old daughter in a property owned by her partner. That property is in Arbroath.
10. The Applicant told the Tribunal that she and her partner wish to sell both the Property and her partner's property and use the proceeds from the sales, after paying off the respective mortgages on both properties, to place a large deposit on a family home closer to family support and to her place of work.
11. The Applicant told the Tribunal that travel commitments, costs and the distance from family support networks were placing considerable strain on her family life and selling the Property would enable her and her partner to secure a home closer to her workplace and their family support, making day-to-day life more manageable.
12. The Applicant told the Tribunal her daughter is due to start school in August 2027 and it was important to her and her partner that they were able to establish a stable home for their daughter before she starts school, giving her time to settle into a new area, develop friendships and establish familiar routines. The Applicant advised she had originally intended for her daughter to start school in the summer of this year but the Applicant decided to defer her daughter's start date until next year to allow time to move, given she has not yet been able to sell the Property.
13. The Applicant advised that her partner is experiencing serious health issues, which were detailed to the Tribunal. The prognosis is currently unclear, and he is unable to work at present.
14. The Applicant told the Tribunal she had originally wanted to move closer to her family as her partner works offshore and she felt she would benefit from family support while he is away from home. The Applicant told the Tribunal her partner is currently unable to work, and she considers that her partner may lose his job due to his health issues. The Applicant told the Tribunal however, that she feels she needs family support more than ever now due to her partner's health issues.
15. The Applicant told the Tribunal that she had not considered trying to sell the Property with the tenant still living there. The Applicant told the Tribunal she

had not thought this would be possible due to the Respondent being in rent arrears.

16. The Applicant told the Tribunal that she had no direct contact with the Respondent but had been provided with details of his personal circumstances from the letting agent who manages the property for her.
17. The Applicant told the Tribunal that she believes the Respondent has a child living in the property with him. She does not know how old the child is but believes he is of school age.
18. The Applicant told the Tribunal that she has been told that the Respondent has mental health issues. She was told this by the letting agent when the Respondent fell into rent arrears a few years ago. The Applicant advised that she was understanding of the Respondent's situation and had agreed to a request to grant him time to pay back the arrears.
19. The Applicant told the Tribunal the Respondent's mental health was last mentioned a few years ago and she has no knowledge of his current mental health status.
20. The Applicant told the Tribunal that the Respondent has experienced periods out of work where he has been in receipt of Universal Credit. The Applicant confirmed that the Respondent lost his job, had made a claim for Universal Credit and had fallen into arrears shortly before the notice to leave was served January 2026. However, the Applicant advised the Tribunal that this did not contribute to her decision to serve the notice to leave at that time. She had decided to serve the notice in January as she had believed that would allow the sufficient time for the Property to be vacated and sold prior to the new school year starting in August 2026. At that time, she had intended for her daughter to start school in August 2026 and had hoped to move before that.
21. The Applicant advised that the letting agent has been in touch with the Respondent and had spoken to him approximately two weeks ago about the upcoming CMD as well as the rent arrears.
22. The Applicant told the Tribunal that the Respondent had advised the letting agent previously that he would vacate the property and move in with family. He had provided dates when he had said he would move out but he has not yet done so. The Applicant was not aware of the Respondent having provided any reason why he had been unable to move out of the property on the dates previously advised.
23. The Applicant advised that the letting agent had found it challenging at times to gain access to the property to carry out necessary tenancy checks, but when access had finally been gained, the property was in acceptable condition with no issues of concern.

Findings in Fact

24. The Applicant is the owner of the Property and entitled to sell it.
25. The Respondent is the tenant of the Property.
26. Parties entered into a Private Residential Tenancy ("PRT") on 4 June 2021.
27. The Applicant intends to put the Property up for sale within three months of the Respondent ceasing to occupy it.
28. The Applicant's reasons for wishing to sell the Property are to enable her to be able to purchase, with her partner, a family home, closer to her work and family support, prior to her daughter starting school.

29. The Applicant's partner is seriously unwell and this has made the Applicant's reasons for selling the property more urgent.
30. On 08 January 2026 the Applicant, through her agent, served upon the Respondent a valid notice to leave as required by the 2016 Act.

Reasons for Decision

31. The Tribunal was satisfied that the Respondent had received notice of the CMD and was content to continue in his absence.
32. The application to the Tribunal was made after the expiry of the notice period given in the notice to leave. The Tribunal was satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice which was sent to the Local Authority. The Tribunal was therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
33. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies".
34. The ground for eviction under which this application was made is the ground contained within paragraph 1 of schedule 3 of the 2016 Act. That ground is that the landlord intends to sell the let property.
35. In terms of paragraph 1(2) of schedule 3 of the 2016 Act the Tribunal may find ground 1 applies where 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 three 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.
36. On the basis of the information contained in the application and provided by the Applicant at the CMD, and in the absence of any information from the Respondent, the Tribunal accepted that ground 1 had been established.
37. 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 weight the various factors which apply to the parties.
38. In this case the Tribunal finds that it is reasonable to grant the order. The balance of reasonableness in this case is weighted towards the landlord in this application for the reasons set out in paragraph 39 below.
39. The Tribunal took into account that the Respondent has a child residing with him at the Property, and that he has experienced mental health issues. However, the Tribunal balanced this against the Applicant's own personal circumstances, including the significant impact of her partner's health issues and the reasons for her wish to sell the house- namely her desire to significantly reduce her commute time, be closer to her family for support and to settle her daughter in local schooling in that area. The Tribunal also took into account the financial impact of the Applicant's partner's health issues, including the risk he might lose his job, when deciding it was reasonable to evict the Respondent in order to enable to the Applicant to sell the Property. Finally, the Tribunal took into account the Respondent's failure to lodge written representations with the Tribunal or to attend the CMD, despite being offered an opportunity to do so, as well as the information provided to the Tribunal by the Applicant that the Respondent has advised he can move in

with family members. In all these circumstances, on balance, the Tribunal considered it reasonable to grant the order sought.

Decision

40. The Tribunal decided to exercise the power within Rule 17 of the procedure rules to make a decision on the application at the CMD as the Tribunal considered it had sufficient undisputed evidence before it to do so. The Tribunal determined that an eviction order in favour of the Applicant should be granted against the Respondent.

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.

L Paterson

3rd November 2026

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Legal Member/Chair **Date**