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/26/0835

Re: Property at 66 Charles Avenue, Arbroath, DD11 2HF ("the Property")

Parties:

Nicoll Properties Ltd, Mountboy Stables, Montrose, DD10 9TN ("the Applicant")

Miss Sarah Gordon, 66 Charles Avenue, Arbroath, DD11 2HF ("the Respondent")

Tribunal Members:

Ruth O'Hare (Legal Member) and Kingsley Bruce (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 26 January 2027.

Background

1 This is an application 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 of Procedure 2017 ("the Rules"). The Applicant relied upon ground 1 of schedule 3 of the 2016 Act, stating their intention to sell the property.

2 The application was accepted as valid and referred to a tribunal for determination. A case management discussion ("CMD") was scheduled to take place on 26 October 2026 at 2pm. Notice of the CMD was given to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the

Respondent by sheriff officers on 19 August 2026 and required the Respondent to make written representations in response to the application no later than 5 September 2026.

3 No written representations were received from the Respondent in advance of the CMD.

The CMD

4 The CMD took place by teleconference on 26 October 2026 at 2pm. The Applicant was represented by Mrs Sarah Nicoll. The Respondent also joined the call.

5 The tribunal had the following documents before it:-

(i) The application form with supporting documents, including private residential tenancy agreement between the parties, notice to leave and proof of delivery to the Respondent, notice under section 11 of the Homelessness etc (Scotland) Act 2003 ("section 11 notice") and proof of delivery to the local authority, and letter from Connelly Yeoman accepting the Applicant's instructions to market and sell the property.

(ii) Land Certificate confirming the Applicant's ownership of the property and proof of the Applicant's landlord registration.

6 The tribunal heard submissions from the parties on the application. The following is a summary of the key elements of the submissions.

7 Miss Nicholl and her husband are the directors of the Applicant. They had six rental properties in their rental portfolio. In October 2025, they gave all their tenants notices to leave. They no longer wish to be landlords. They are selling off their portfolio with a view to moving abroad. They have only this property and another property left. They have recently obtained an eviction order for that property.

8 The Respondent did not object to the eviction order. She has made an application for council housing. The order will give her application priority. She has three children and would prefer to stay in the local area. She would like sufficient time to secure alternative accommodation.

9 Both parties confirmed they would be content for the execution of the eviction order to be suspended for three months.

10 The tribunal adjourned the CMD to deliberate, at which point the parties left the call, before resuming the proceedings and confirming the outcome.

Findings in fact and law

11 The Applicant is the owner and landlord, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement.

12 The Applicant has given the Respondent a notice to leave within the meaning of section 62 of the 2016 Act. The notice to leave includes ground 1.

13 The Applicant has given the local authority a section 11 notice at the time of making this application.

14 The Applicant is entitled to sell the property as the registered owner.

15 The Applicant intends to sell the property, or market the property for sale, within three months of the Respondent ceasing to occupy it.

16 The Applicant's directors are in the process of selling their rental portfolio. They no longer wish to be landlords and intend on living abroad.

17 The Respondent resides in the property with her three children.

18 The Respondent does not oppose the eviction order. The Respondent has applied to the local authority for rehousing. The eviction order will prioritise her application.

19 It is reasonable to make an eviction order provided execution of the order is suspended for a period of three months.

Reasons for decision

20 The tribunal was satisfied that it could make relevant findings in fact to reach a decision on the application based on the documentary evidence and submissions from the parties at the CMD, and that to do so would not be contrary to the interests of the parties in this case.

21 Section 51 of the 2016 Act provides that "*The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."*

22 Section 52 of the 2016 Act goes on to state that "*an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant."* The tribunal had before it a copy of a notice to leave in the prescribed form that had been given to the Respondent which cites ground 1 of schedule 3 of the 2016 Act. The tribunal was also satisfied that the Applicant had sent a section 11 notice to the local authority in accordance with the requirements of section 56 of the 2016 Act.

23 The tribunal considered the terms of ground 1, which are contained in paragraph 1 of schedule 3 of the 2016 Act:-

"Landlord intends to sell

1(1) It is an eviction ground that the landlord intends to sell the let property.
(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if 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 3 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.

(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—
(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,
(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market."

24 The tribunal determined based on the documents before it that the Applicant is entitled to sell the property as the registered owner and intends to do so within three months of the Respondent vacating. There was no contradictory evidence before the tribunal.

25 The tribunal therefore determined that paragraph 1(2)(a) and (b) of schedule 3 of the 2016 Act were met.

26 The tribunal went on to consider the reasonableness of making an eviction order in this case in accordance with the terms of paragraph 1(2)(c) of schedule 3 of the 2016 Act.

27 The tribunal considered the Applicant's property rights as the heritable owner, and their reasons for selling the property. The tribunal also considered the Respondent's circumstances as reflected in its findings in fact. Ultimately the tribunal gave most weight to the fact that the Respondent did not object to the application. She accepted the Applicant's intention to sell the property and had applied for rehousing with the local authority. The eviction order would prioritise her application in this regard.

28 However, the tribunal considered it would be reasonable to allow the Respondent additional time to secure suitable alternative accommodation for herself and her family by suspending execution of the order for a period of three months. The Applicant did not object to this.

29 The tribunal therefore determined that the provisions of paragraph 1 of schedule 3 of the 2016 Act had been met and made an eviction order under

section 51 of the 2016 Act with execution of the order suspended for three months.

30 The decision of the tribunal was unanimous.

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.

Ruth O'Hare

26 October 2026

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Legal Member/Chair **Date**