

Decision 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”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/EV/22/2915

Re: Property at 9 Hillview Place, Dollar, Clackmannanshire, FK14 7JG (“the Property”)

Parties:

Mr Iain Turner, Mrs Virginie Turner, Sevogelstrasse 104, 4052 Basel, Switzerland, Switzerland (“the Applicant”)

Miss Caroline Manson, Mr David Downie, 9 Hillview Place, Dollar, Clackmannanshire, FK14 7JG (“the Respondent”)

Nicola Weir (Legal Member) and Andrew Taylor (Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession of the property be granted, with the eviction enforcement date being postponed until 14 May 2026.

Background

1. The application submitted on 16 August 2022 sought an eviction order in terms of Section 51 of the 2016 Act on the basis of Ground 1 of Schedule 3 to the 2016 Act (landlord intends to sell). There was a Private Residential Tenancy (“PRT”) entered into between the parties in respect of the Property, which commenced on 19 March 2020 at a monthly rental of £895. A Notice to Leave was served on the Respondents on 24 January 2022. They remained in possession of the Property and opposed the Applicants’ application for eviction. Following an Evidential Hearing on 4 March 2023, the Tribunal granted an eviction order, with enforcement of the order postponed for 4 months, until 14 July 2023. The Respondents’ appealed to the Upper Tribunal who, by decision dated 25 October 2023 upheld the appeal, quashed the Tribunal’s decision of

14 March 2023 and remitted the case to a freshly constituted panel to consider the application of new.

2. A Case Management Decision (“CMD”) was originally fixed for 16 January 2024 at 2pm but was postponed on that date at the request of the Respondent’s representative, due to an administrative error on the part of the Tribunal Administration. A fresh CMD was fixed for 18 April 2024 at 10am and proceeded that day. The application was adjourned to an Evidential Hearing and a Direction issued by the Tribunal.
3. Further procedure followed and further documentation and written representations were lodged by both parties in response to the Direction and subsequently. Both parties had instructed Counsel to act on their behalf and there followed difficulties in identifying a suitable date for the Evidential Hearing to proceed. Several dates were scheduled but required to be cancelled due to availability issues, involving parties, their representatives, witnesses and the Tribunal Members. An Evidential Hearing was subsequently scheduled to take place on 27 February 2025 but was then postponed, on cause shown, at the request of the Respondent, due to a family bereavement. Further attempts were made to identify a suitable date for the Evidential Hearing to take place.
4. On 25 March 2025, the Applicant’s representative emailed the Tribunal, indicating that a joint position had been reached between the parties and requested that an eviction order be granted by the Tribunal with the enforcement date postponed until 14 May 2026. It was submitted that it was reasonable in all the circumstances for the order to be granted under Ground 1 in that the Applicant intends to sell the Property. It was requested that the Tribunal deal with the matter administratively under Rule 18 of the Regulations on the basis that no further hearing was required. This email was copied directly to the Respondent’s representative who responded later on the same date to confirm the position. It was stated that the Respondent will consent to an eviction order with enforcement postponed until 14 May 2026 and was content to proceed without a further hearing if the matter could be dealt with administratively.

Decision/Reasons

5. The Tribunal Members conferred on the matter and determined, in the circumstances, to deal with the matter under Rule 18 (*Power to determine the proceedings without a hearing*). Given the joint position of the parties as stated in their representatives’ written representations, the Tribunal decided to grant the eviction order requested under Ground 1 of Schedule 3 to the 2016 Act, with the eviction enforcement date postponed until 14 May 2026. In these circumstances, the Tribunal has made no findings-in-fact regarding the merits of the case and the reasons for this Decision are as stated above, namely the joint position of the parties that this eviction order be granted without the need for a further hearing.

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.

N.Weir

Legal Member/Chair

**31 March 2025
Date**