



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51 of the Private Housing
(Tenancies) Act 2016**

Chamber Ref: FTS/HPC/EV/24/3776

Re: Property at 32 Main Street, Methven, PH1 3PU (“the Property”)

Parties:

Mrs Yvonne Pattullo, Millhaugh Farm Cottage No 2, Methven, PH1 3TA (“the Applicant”)

Miss Leanne MacDonald, Mr John Hutchison, 32 Main Street, Methven, PH1 3PU (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member) and Tony Cain (Ordinary Member) (“the tribunal”)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order of eviction in respect of the Property be granted in favour of the Applicant

Background

1. This is an application for recovery of the Property. The application is dated 16 August 2024. The Applicant is seeking recovery under Ground 1, Part 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. This ground states that it is an eviction ground that the landlord intends to sell the let property. The date and time of the Hearing was intimated to parties who were given the opportunity to make written representations and/or lodge productions.

Preliminary Matters

2. The case management discussion was held by audio conference on 9 April 2025. Mr Kevin McNiven of Premier Properties Perth represented the Applicant who was not present. The Respondents were present. The Legal Member outlined the purpose of a case management discussion and the terms of Rule 17 of the Chamber Rules:

Case management discussion

17.— (1) The First-tier Tribunal may order a case management discussion to be held—

(a) in any place where a hearing may be held;

(b) by videoconference; or

(c) by conference call.

(2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a case management discussion and any changes to the date, time and place of a case management discussion.

(3) The purpose of a case management discussion is to enable the First-tier Tribunal to explore how the parties' dispute may be efficiently resolved, including by—

(a) identifying the issues to be resolved;

(b) identifying what facts are agreed between the parties;

(c) raising with parties any issues it requires to be addressed;

(d) discussing what witnesses, documents and other evidence will be required;

(e) discussing whether or not a hearing is required; and

(f) discussing an application to recall a decision.

(4) The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision

3. Mr McNiven said that there had been no difficulties during the tenancy. He said that the Applicant's husband had died suddenly. This had caused the Applicant to decide to sell the Property. He explained that the Applicant has only a state pension and a small private pension. He said that it would be struggle for her to keep the Property maintained and that she has come to the decision that she requires to sell the Property.

4. The tribunal noted the terms of business letter between the Applicant and Premier Properties Perth for the marketing of the Property.
5. Ms MacDonald said that she accepted the reason the Applicant wants to sell the Property. She said that she agreed that the Applicant intends to put the Property on the market once she has possession of it.
6. Mr McNiven and the Respondents said that they had no evidence which they would want to bring to a hearing and saw no reason for the application not to be determined at the case management discussion.

Documents before the tribunal

- 6.1 Copy of the private residential tenancy agreement for the Property dated 2 June 2020 showing that the tenancy commenced on 5 June 2020. The tenancy agreement showed the tenants to be the Respondents.
- 6.2 Notice to Leave dated 10 May 2024 and delivered by email on the same date.
- 6.3 Notice to the local authority in terms of Section 11 of The Homelessness etc. (Scotland) Act 2003 dated 5th August 2022.
- 6.4 Copy of Disposition in favour of the Applicant and Mr William Pattullo with a survivorship destination recorded in General Register of Sasines on 4 December 1981.
- 6.5 Terms of business letter between the Applicant and Premier Properties Perth dated 16 August 2024 in respect of marketing the Property for sale.

Findings in Fact

- 7.1 The Applicant is the owner of the Property.
- 7.2 The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the Property on 2 June 2020.
- 7.3 The start date for the tenancy was 10 July 2020.
- 7.4 The monthly rent for the Property is £500.

7.5 The Applicant gave the Respondents Notice to Leave which was served on them on 10 June 2024.

7.6 The Applicant has given notice to the local authority in terms of Section 11 of the Homelessness etc. (Scotland) Act 2003.

7.7 The Applicant intends to sell the Property.

Findings in Fact and Law

8.1 The Private Residential Agreement dated 2 June 2020 contains eviction grounds including Ground 1: "It is an eviction ground that the landlord intends to sell the property."

8.2 The Notice to Leave, which was dated 10 May 2024, referred to Ground 1 which is being relied on by the Applicant as the reason for seeking recovery of the Property.

8.3 The Notice to Leave indicated that any proceedings for eviction would not be commenced prior to 6 August 2024.

8.4 The Applicant intends to sell the Property, or at least put it up for sale, within three months of the Respondent ceasing to occupy it.

8.5 It is reasonable to grant the order of eviction.

The Law

The following are provisions of the Private Housing (Tenancies) (Scotland) (Act) 2016

Section 51: First-tier Tribunal's power to issue an eviction order

(1) 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.

(2) The provisions of schedule 3 stating the circumstances in which the Tribunal may find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.

(3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.

(4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

(introduced by section 51)

Schedule 1, Part 1

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 must find that the ground named by sub-paragraph (1) applies if the landlord—

(a) is entitled to sell the let property, and

(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.

(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.

Evidence and Submissions

9. The tribunal had regard to the documentation which had been lodged by the Applicant.

10. Mr McNiven asked the tribunal to accept that the ground for eviction was met and to accept that the Applicant intended to market the Property.

11. The Respondents did not dispute that the eviction ground was met.

12. Mr McNiven invited the tribunal to consider it reasonable that the Applicant be allowed to recover the Property to enable her to sell it.

13. Ms MacDonald said that, when the Notice to Leave had been served on the Respondents, they had tried to get alternative accommodation. She said that there is a shortage of private rental properties in Methven and surrounding areas and that they

had been put on a number of waiting lists with agents. Ms MacDonald said that the Respondents had made enquiries of Perth and Kinross Council with regard to social housing and had been told that matters could not progress until they had an order from the Tribunal.

14. Ms MacDonald said that the Respondents live in the Property with their children aged five and two. She said that her five year old son is in Primary One at Methven Primary School.

15. Ms MacDonald said that the Respondents had widened their property search from Methven alone and she said that the best outcome would be for them to get social housing.

16. Ms MacDonald said that her son would struggle if he had to start a new school. She accepted that this may be necessary but said that it would be good if he could complete the school year without disruption.

17. Ms MacDonald said that she considered it reasonable that a decree of eviction be granted in favour of the Applicant.

18. Mr McNiven said that he was sympathetic to the position of the Respondents in having to move and their desire for their child to complete Primary One in his current school. He said that the Applicant would do all that is possible to assist the Respondents notwithstanding that she needs to recover the Property to put it on the market.

Discussion and Reasons

19. The tribunal had regard to the documentation which had been lodged by the Applicant.

20. Neither party indicated that it would be necessary for determination of the Application to be adjourned to a Hearing and the tribunal agreed with this. There was no dispute on the facts.

21. The tribunal considered that the requirements of Ground 1 have been met. It determined that the Applicant intends to sell the Property.

22. The Respondents had not sought to challenge that the Applicant intended to market the Property.

23. In considering whether it was reasonable to grant the order of eviction, the tribunal considered the respective position of the parties. The Applicant requires to sell the Property because of her changed circumstances as a consequence of the death of her husband.

24. The Property is the Respondents' family home and they have two young children. They indicated that they had no objection to the granting of the order of eviction but highlighted their concerns that their son may have difficulties if he were required to move to a new school and that these would be exacerbated if he was unable to complete the school year in his present school.

25. In balancing matters, the tribunal considered it reasonable to grant the order of eviction but considered that it would be appropriate to delay execution of the order until 30 June 2025. This would allow the Respondent's son to complete his school year in Methven Primary School.

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.

Martin McAllister

**Martin J. McAllister
Legal Member
9 April 2025**