

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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**

**Chamber Ref: FTS/HPC/EV/24/4432**

**Re: Property at 51 Woodside Drive, Forres, Moray, IV36 2UF (“the Property”)**

**Parties:**

**Ms Judith Watt, as Attorney for Mr Edwin Grieve, 15 Woodside Park, Forres,  
Moray, IV36 2GJ (“the Applicant”)**

**Miss Sian Turner, 51 Woodside Drive, Forres, Moray, IV36 2UF (“the  
Respondent”)**

**Tribunal Members:**

**Martin McAllister (Legal Member) and Elaine Munroe (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 23 September 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 7 April 2025. Ms Rebecca Nicolson of Cluny Estate Agents represented the Applicant who was not present. The Respondent was present and was represented by Ms Sonya Hayward of Moray Citizens Advice Bureau. 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. Ms Nicolson conceded that the Applicant had not submitted any documentary evidence to vouch that it was the intention to sell the Property. She explained that the Applicant planned to market the Property with Cluny Estate Agents and that a Home Report had been carried out for the Property.

4. The Respondent explained that, when she received the Notice to Leave, she had intimated that she would like to purchase the Property. A Home Report had been carried out and, subsequent to that, she had indicated that she would be prepared to purchase the Property at a price of £225000 but had been told that the Applicant was seeking £250000.
5. The Respondent said that she acknowledged that the Applicant intended to market the Property and that she required to sell it to pay the care costs of her father, the owner.

### **Documents before the tribunal**

- 6.1 Copy of the private residential tenancy agreement for the Property dated 10 July 2020 showing that the tenancy commenced on that date. The tenancy agreement showed the tenant to be the Respondent.
- 6.2 Notice to Leave dated 24 June 2024 and delivered by signed for mail on 25 June 2024.
- 6.3 Notice to the local authority in terms of Section 11 of The Homelessness etc. (Scotland) Act 2003 dated 5<sup>th</sup> August 2022.
- 6.4 Print of Title Sheet for MOR1111 (the Property).
- 6.5 Certificate of Registration of Power of Attorney dated 19 January 2012.

### **Findings in Fact**

- 7.1 The Applicant is the Attorney of Mr Edwin Grieve.
- 7.2 Mr Edwin Grieve is the owner of the Property.
- 7.3 The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the Property on 8 October 2020.
- 7.4 The start date for the tenancy was 10 July 2020.
- 7.5 The monthly rent for the Property is £725.
- 7.6 The Applicant gave the Respondent Notice to Leave which was served on her on 25 June 2024.

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

7.8 The Applicant intends to sell the Property to pay care costs for its owner.

## **Findings in Fact and Law**

8.1 The Private Residential Agreement dated 10 July 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 24 June 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 20 September 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.

## **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. Ms Nicolson 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 Respondent did not dispute that the eviction ground was met.

12. Ms Nicolson invited the tribunal to consider it reasonable that the Applicant be allowed to recover the Property to enable her to sell it to finance the care costs of the owner of its owner.

13. The Respondent said that, when the Notice to Leave had been served on her, she had first pursued a purchase of the Property. When that had proved unsuccessful, she had looked for alternative housing. She said that her preference was to purchase although she had submitted applications for social housing with two local authorities.

14. The Respondent said that, until a few weeks ago, she had been seeing to purchase a property with her partner which would have required to have been large enough to

accommodate their combined families. She said that, because of a change in circumstances, she was now seeking a property to accommodate only her and her twenty one year old daughter. The Respondent said that she and her daughter both are employed locally.

15. The Respondent said that she understood why it would be necessary for the Property to be sold because of the requirement of Mr Grieve to pay care costs

### **Discussion and Reasons**

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

17. 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.

18. Notwithstanding that the Applicant had not lodged documentary evidence of her intention to market the Property, the tribunal considered that the requirements of Ground 1 have been met. It accepted the position outlined by Ms Nicolson that the Applicant has been in discussions with Cluny Estate Agents with regard to marketing the Property. The tribunal also considered it significant that a Home Report had been obtained.

19. The Respondent had not sought to challenge that the Applicant intended to market the Property.

20. 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 to pay her father's care costs. The Respondent intends to purchase a property and did not submit that it was not reasonable for the Applicant to recover possession of the Property.

21. In balancing matters, the tribunal considered it reasonable to grant the order of eviction.

### **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**

**Legal Member**

**Date: 7 April 2025**