

**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 2025**

**Chamber Ref: FTS/HPC/EV/24/2635**

**Re: Property at 232 Burns Road, Greenock, PA16 0HQ ("the Property")**

**Parties:**

**Ms Tracey Mullen, 3 Arden Road, Greenock, PA15 3AB ("the Applicant")**

**Ms Nicole Ann Cannon, 232 Burns Road, Greenock, PA16 0HQ ("the Respondent")**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Helen Barclay (Ordinary Member)**

**Decision**

At the Case Management Discussion ("CMD") which took place by telephone conference on 24 March 2025, the Applicant and Respondent were in attendance.

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:-**

**Background**

The Tribunal noted the following background:-

- i. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 5 October 2021.
- ii. On 1 February 2024, the Applicant served on the Respondent by recorded delivery post a Notice to Leave requiring the Respondent remove from the Property by 28 April 2024.
- iii. The Notice to Leave proceeds upon Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").
- iv. The Applicant has served on Inverclyde Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

**The CMD**

At the outset of the CMD the Tribunal established that the Applicant still wished an eviction order to be granted. The Respondent stated that she did not oppose an eviction order being granted. She said she had been trying to secure local authority accommodation. She has a "gold pass" from Inverclyde Council and will get accommodation on an urgent basis.

In response to questions from the tribunal the Applicant stated:-

- i. She separated from her husband 13 months ago. She lives with her son, aged 9 years.
- ii. The house in which the Applicant resides is in her husband's name. He has agreed to sell that property to the Applicant.
- iii. The Applicant requires to sell the Property to enable her to buy the property in which she lives from her husband.
- iv. The Property was formerly the Applicant's home for 6/7 months before she moved into the property in which she now lives.
- v. There is a mortgage over the Property.
- vi. The Applicant is not sure whether there will be any equity in the Property on a sale. There may be Capital Gains Tax issues and there will be legal fees to pay.
- vii. The purchase of the Property was part funded by the Scottish Government. Any equity is shared between the Applicant and the Scottish Government on a 60/40 basis.
- viii. The Applicant will require a mortgage to purchase the property in which she lives.
- ix. The Applicant does not own any other properties.
- x. The Applicant's married name is "Mullen".
- xi. Before renting the Property the Applicant took advice from Blair & Bryden, Solicitors, as to whether renting was permissible having regard to the shared equity arrangement. She was advised that the paperwork did not say that she could not rent out the Property.

In response to questions from the tribunal the Respondent stated:-

- i. She lives in the Property with her 14 and 8 year old sons.
- ii. She is a full-time Mum and carer for her younger son who is being tested for ADHD and Autism.
- iii. She received Universal Credit and contributes £100 per month towards her rent.
- iv. She also receives Child Benefit and the Scottish Child Payment.
- v. She has looked in the private sector for accommodation and whilst there is nothing available she has also been warned about the possibility of finding herself in the same situation again.
- vi. The grant of the eviction order will help accelerate housing being allocated to her by the local authority.
- vii. The Property has 3 bedrooms.

### **Reasons for Decision**

There were no disputed factual matters between the parties.

The application proceeds upon Ground 1 of Schedule 3 of the 2016 Act.

Ground 1 states:-

- "(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.”*

The Applicant is entitled to sell the Property in terms of sub-paragraph 2(a), being the heritable proprietor thereof.

Sub-paragraph 2(b) requires that the Applicant intends to sell the Property for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it. Sub-paragraph 3 gives examples of the evidence that might be produced to show the landlord has the intention described in sub-paragraph 2(b). In this instance the Applicant relies upon a Property Sales Contract from Blair & Bryden dated 24 July 2024. The Tribunal accepts this documentation as sufficient to meet the terms of sub-paragraph 2(b).

The Tribunal also requires to be satisfied that it is reasonable to issue an eviction order in terms of sub-paragraph 2(c).

The Tribunal took into account the Applicant’s need to sell the Property in order to secure the purchase of the home in which she lives with her young son from her husband from whom she is separated. The Tribunal also took into account the Respondent’s consent to an eviction order being granted to accelerate her priority status for local authority housing accommodation.

On that basis the Tribunal considered it reasonable to grant an eviction order.

### **Decision**

The Tribunal granted an eviction order in favour of the Applicant.

### **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.**

Gillian Buchanan

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Legal Member/Chair

24 March 2025  
Date

