

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

Chamber Ref: FTS/HPC/EV/24/3771

Re: Property at 11b Leopold Street, Nairn, IV12 4BE (“the Property”)

Parties:

**Mrs Ann Patterson, Chilgrove, Farthings Walk, Farthings Hill, Horsham, West
Sussex (“the Applicant”)**

**Mr Kevin Taylor, Mrs Rachel McKay or Taylor 11b Leopold Street, Nairn, IV12
4BE (“the Respondents”)**

Tribunal Members:

Josephine Bonnar (Legal Member) and Helen Barclay (Ordinary Member)

Decision

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

Background

- 1.** The Applicant seeks an eviction order in terms of Section 51 and Ground 1 of schedule 3 of the 2016 Act. A section 11 notice, tenancy agreement, Notice to leave and evidence of the intention to sell were submitted with the application.
- 2.** A copy of the application was served on the Respondents, and the parties were notified that a CMD would take place by telephone conference call on 27 March 2025.
- 3.** The CMD took place on 27 March 2025. The Applicant represented by Ms Ewan. The Respondents both participated.

Summary of Discussion

4. The Legal Member advised the parties that although the application names both the Respondents, the documents had only been served on Mr Taylor. This was an oversight on the part of the Tribunal administration. Mrs Taylor confirmed that she has had sight of the application paperwork which was served on Mr Talor. The Tribunal is satisfied that her participation in the CMD cured the defect in service.
5. The Respondents told the Tribunal that they do not oppose the application. They have not managed to find alternative accommodation and had to approach the Council. The Council told them to stay where they are until an eviction order is granted. At this point they will be offered temporary accommodation. They would have preferred to move before now but have been unable to do so.
6. Ms Ewan told the Tribunal that the Applicant is retired and is having to sell the property to fund her retirement, due to the increases in the cost of living. She is also selling the adjoining commercial unit, through a different agent. Ms Ewan said that there have been no problems with the tenancy.
7. Mr and Mrs Taylor told the Tribunal that they are both in employment. They have a two year old child. In addition, Mr Taylors children, aged 13, 8 and 18, also stay part time at the property with them. They hope to obtain a property from the Council which will accommodate the whole family. They also hope to remain in Nairn or the surrounding area, as they both have family nearby. In relation to a possible order to delay enforcement of an eviction order, Mrs Taylor said that they did not want the Tribunal to consider doing that.

Findings in Fact

8. The Applicant is the owner and landlord of the property.
9. The Respondents are the tenants of the property.
10. The Applicant wishes to sell the property to fund her retirement due to increases in the cost of living.
11. The Applicant served a Notice to leave on the Respondents on 15 May 2024.
12. The Respondents have not secured alternative accommodation but do not oppose the application. They hope to be provided with accommodation by the Local Authority and have made an application.
13. The Respondents have a 2 year old child living with them full time at the property. Three other children aged 8, 13 and 18 live part time at the property.
14. The Respondents are in employment and have extended family living in the area.

Reasons for Decision

15. The application was submitted with a Notice to Leave dated 15 May 2024, together with a copy of an email which establishes that the Notice was sent to the Respondents on the same date. The Notice states that an application to the Tribunal is to be made on ground 1, the landlord intends to sell the let property.
16. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice which was sent to the Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
17. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
18. Ground 1 of schedule 3 (as amended) 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."
19. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Applicant intends to sell the property and that ground 1 is established.
20. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted that the Applicant provided valid reasons for selling the property. The Respondents have children living with them at the property and have not managed to secure alternative accommodation. However, they were quite clear that the application is not opposed. This factor outweighs the effect that the order is likely to have on the Respondents and their family. The lack of opposition, together with the Applicant's reasons for selling the property, lead the Tribunal to conclude that it would be reasonable to grant the order for eviction.
21. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act and that ground 1 has been established. For the reasons outlined in paragraph 19, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

- 22.** The Tribunal determines that an eviction order should be granted against the Respondent.

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.

Josephine Bonnar, Legal Member

27 March 2025