

**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/24/3895**

**Re: Property at 69 Nith Street, Dunfermline, Fife, KY11 4LX (“the Property”)**

**Parties:**

**Mr David Finlayson, 20 Fordell Bank, Dalgety Bay, Dunfermline, Fife, KY11 9NP  
 (“the Applicant”)**

**Ms Antionette Anderson, 69 Nith Street, Dunfermline, Fife, KY11 4LX (“the  
 Respondent”)**

**Tribunal Members:**

**Andrew Cowan (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision (in absence of the Respondent)**

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

**Background**

1. This is an application by the Applicant for an eviction order in relation to a Private Residential Tenancy (“PRT”) in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The PRT had been granted by the Applicant to the Respondent commencing on 18 May 2023 (the Respondent had also been a tenant of the Applicant under a previous tenancy agreement).
2. The application was dated 22 August 2024.
3. The application relied upon a Notice to Leave dated 5<sup>th</sup> February 2024, issued in terms of section 50 of the *Private Housing (Tenancies) (Scotland) Act 2016*, served upon the Respondents by email, all in accordance with the provisions of the PRT. The Notice relied upon Ground 1 of Schedule 3 Part 1 of the 2016

Act, being that “the landlord intends to sell”. The Notice to Leave intimated that an application to the Tribunal would not be made before 09 May 2024.

4. Evidence of a section 11 notice in terms of the *Homelessness Etc. (Scotland) Act 2003* served upon Fife Council on 28 March 2024 was included in the application papers.
5. The Applicant had also correspondence with Abbey Forth Property Management, letting agents, which confirmed that the Applicant had instructed that company to take forward the sale of the Property.

## **The Hearing**

6. The matter called for a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 24 March 2025.
7. The Applicant did not join the conference call, but he was represented on the call by Mr Stuart Dalziell, from Abbey Forth Letting Agents. The Applicant had given Mr Dalziell authority to act on his behalf in relation to this application.
8. The Respondent did not join the CMD call. The Tribunal were satisfied that the Application, and details of the CMD, had been intimated upon the Respondent by Sheriff Officers on 18 February 2025. The Respondent has not made any written representations to the Tribunal in advance of the CMD. The Tribunal is satisfied that the Respondent has been given reasonable notice of the date, time and place of the CMD and that the requirements of rule 24(1) of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”) have been duly complied with. In the circumstances the Tribunal proceeded with the application in accordance with rule 29 of those Procedure Rules.
9. At the CMD, the Applicant’s representative confirmed that the application for eviction was insisted upon. It was explained that the Applicant has a portfolio of properties for let. The Applicant has made the decision to divest himself of the obligations for these properties by selling his portfolio of properties on the open market. The Applicant has already sold six properties from his portfolio and is now selling a further three properties. The Applicant has selected this property to sell as it requires necessary works to upgrade and improve the condition of the Property. The Applicant does not wish to incur the associated costs of such works. The Respondent is currently in arrears of rent in respect of the lease of the Property. The arrears of rent due, as at the date of the CMD, are £5700. The Applicant is not aware of whether the Respondent has sought advice in relation to the application. The Applicant understands that the Respondent may have the intention to move to the West Lothian area, and that it has been suggested by the Respondent to the Applicant that any application for social housing in that area cannot be progressed until the current tenancy of the Property is terminated under the terms of an eviction order.

10. The Applicant has exhibited to the tribunal copies of correspondence with his property management agents, which confirms that those agents are instructed to proceed to market the Property for sale.

### **Findings in Fact and Law**

11. The Applicant let the Property to the Respondent under a Private Residential Tenancy which commenced on 18 May 2023 ("the Tenancy").
12. Notice to Leave was emailed to the Respondent on 05 February 2024. The notice to leave relied upon Ground 1 of Schedule 3 part 1 of the 2016 Act.
13. A section 11 notice in the required terms of the *Homelessness Etc. (Scotland) Act 2003* was served upon Fife Council on the Applicant's behalf on 28 March 2024.
14. The Applicant has instructed agents to market and sell the Property on his behalf.
15. The Applicant intends to sell the Property, and it is reasonable that an order for eviction is granted.

### **Reasons for Decision**

16. The application is in terms of rule 109, being an order for eviction of a PRT. We were satisfied on the basis of the application and supporting papers that the Notice to Leave had been competently drafted and served upon the Respondent.
17. Ground 1 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:

(1.)...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.

(2) 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.

20. The Applicant has engaged agents to sell the Property. The Applicant wishes to sell the Property as he no longer considers that it is financially viable to let the Property. We were satisfied on the evidence that the Applicant has a genuine intention to sell the Property and that Ground 1 of Schedule 3 to the 2016 Act had been established.

21. The Tribunal also considered whether it was reasonable to issue an eviction order.

The Tribunal accept that the Applicant wishes to sell the Property as it is no longer financially viable for him to continue to let this Property. The Property requires significant works by way of repairs and improvements and the Applicant does not wish to incur the costs of such works.

The Respondent has not entered an appearance before the Tribunal and has not provided any written opposition to the Tribunal.

In all the circumstances the Tribunal are satisfied that it is reasonable to grant an order for eviction.

22. The Tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

## **Decision**

23. In all circumstances, we grant an order against the Respondent for eviction from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 further to ground 1 of Schedule 3 of that Act.

## **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.**

**Andrew Cowan**

**24 March 2025**

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**Legal Member/Chair**

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**Date**