

**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 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 (Act)**

**Chamber Ref: FTS/HPC/EV/24/4551**

**Re: Property at 330 G/R King Street, Broughty Ferry, DD5 2BA (“the Property”)**

**Parties:**

**Ms Mary Kirkland, 328 King Street, Broughty Ferry, DD5 2BA (“the Applicant”)**

**Mr Alan Ewen, 330 G/R King Street, Broughty Ferry, DD5 2BA (“the Respondent”)**

**Tribunal Members:**

**Alan Strain (Legal Member) and Frances Wood (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted but that execution of the order should be postponed to 16 June 2025.**

This is an application under Rule 109 and section 51(1) of the Act in respect of the Applicants’ intention to sell the Property and for eviction and recovery of possession on Ground 1 of Schedule 3 to the Act.

The Tribunal had regard to the following documents lodged in advance of the Hearing:

1. Application received 2 October 2024;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 1 February 2021;
3. Notice to Leave dated and served by email on 4 June 2024;
4. Section 11 Notice and email serving on local authority dated 2 October 2024;
5. Signed terms of engagement with estate agents dated 4 October 2024;
6. Email from Applicant’s Representative with written submissions dated 7 March 2025; and
7. Email from Applicant with written submissions dated 31 March 2025.

## **Case Management Discussion (CMD)**

The case called for a CMD by conference call on 16 April 2025. The Applicant participated and was represented by her Letting Agent, Mrs Wheelan. The Respondent participated and represented himself. The Respondent was supported by his mother, Mrs Ewen.

### *The Respondents' position*

The Respondent did not seek to oppose the order for recovery of possession but due to his personal circumstances sought further time to obtain alternate accommodation. He had been in contact with the local housing department and had been searching the private rented market without success. The Respondent has twin daughters aged 17 who reside with him and attend further education in the locality.

He confirmed that the local authority were aware of the eviction application and that the case was calling today. He was to go back to them after the outcome of the Tribunal was known.

### *The Applicant's position*

The Applicant's position was that she was approaching 75 and no longer wished the stress of being a landlord. She had another rental property and she was seeking to sell them both to realise the capital for other uses.

## **Decision and Reasons**

The Tribunal considered the documentary evidence and agreement between the Parties.

The Tribunal had regard to the terms of Ground 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 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.

In so far as material the Tribunal made the following findings in fact:

1. Private Residential Tenancy Agreement (**PRTA**) commencing 1 February 2021;
2. Notice to Leave was dated and served by email on 4 June 2024;
3. Section 11 Notice was served by email on local authority dated 2 October 2024;
4. The Applicant had signed terms of engagement with estate agents dated 4 October 2024;
5. The Applicant is the owner of the Property and intends to sell it or at least put it up for sale within 3 months of the Respondent ceasing to occupy it;
6. The Respondent did not oppose the order being granted;
7. The Respondent is in contact with the local authority homelessness department and lives in the Property with his twin daughters who attend further education in the locality.

The Tribunal were satisfied that Ground 1 had been established.

The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal determined that it would be reasonable to grant the order sought in the circumstances.

The Tribunal weighed the competing interests of the Parties and determined that it was reasonable in the circumstances to grant the application for eviction and recovery of possession and to postpone execution of the order to 16 June 2025 under Rule 16A of the Tribunal Procedure Rules.

### **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.**

**16 April 2025**

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**Legal Member/Chair**

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**Date**