

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under 51 (1) of the Private Housing
(Tenancies) (Scotland) Act 2016 (Act)**

Chamber Ref: FTS/HPC/EV/24/2988

Re: Property at 46 Belvedere Road, Bathgate, EH48 4AX (“the Property”)

Parties:

Miss Mariadoriana Pastorino, Via Brunico 34, Varese, 21100, Italy (“the Applicant”)

Mr Mateusz Adam Marynowski, 46 Belvedere Road, Bathgate, EH48 4AX (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Mary Lyden (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 30 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 1 July 2024;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 23 January 2024;
3. Notice to Leave dated 30 May 2024 and served by email on 27 and 29 May 2024;
4. Section 11 Notice and email serving on local authority dated 2 July 2024;
5. Correspondence from estate agents dated 7 June 2024;
6. Email from Applicant’s Representative with written submissions dated 23 January 2025.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 29 April 2025. The Applicant did not participate but was represented by Ms Ina Voitika. The Respondent participated and represented himself.

The Respondents' position

The Respondent did not seek to oppose the order for recovery of possession. He had explained at the outset of the tenancy that he wished a long tenancy given his family circumstances.

He lived in the 3 bedroom Property along with his wife and daughters aged 5 and 10 months. The daughter aged 5 was learning English and attended a local nursery. She had obtained a place at the local school commencing August 2025. He was keen to give her stability and find another property in the locality so that she could continue to attend the local nursery and school.

His youngest daughter had been born prematurely and was on special formula milk, had support from the local health visitor and pharmacy.

He had been in contact with the local housing department, housing associations and had been searching the private rented market without success.

The Applicant's position

The Applicant's position was that she was an Italian national now living in working in Italy. She had recently lost her job. Her mortgage term had ended and the repayments had increased considerably from £590 to around £800 per month. As she was a foreign national and not living in the UK she could not obtain a remortgage. She was struggling financially to cover the mortgage payments.

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 23 January 2024;
2. Notice to Leave was dated and served by email on 27 and 29 May 2024;
3. Section 11 Notice was served by email on local authority dated 2 July 2024;
4. The Applicant had engaged estate agents;
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 Applicant is unable to obtain a remortgage on the Property due to residing outside the UK. Her mortgage payments have increased since the end of the original mortgage term and are now around £800. The Applicant has recently lost her job (January 2025) and is struggling financially;
7. The Respondent did not oppose the order being granted;
8. The Respondent is in contact with the local authority homelessness department, housing associations and is searching the private rented sector;
9. The Respondent lives in the Property with his wife and two daughters aged 5 and 10 months. His oldest daughter attends a local nursery and has a placement with a local school commencing August 2025. His youngest daughter was premature and is receiving support and assistance locally.

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 30 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.

Alan Strain

Legal Member/Chair

Date: 29 April 2025