

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 Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/5079

Re: Property at 15 Carrick Knowe Drive, Edinburgh, EH12 7EB (“the Property”)

Parties:

Craig Morrison as Trustee in Sequestration of Lendrick Gillies, c/o Quantum Advisory Limited, Turnberry House, 175 West George Street, Third Floor, Glasgow (“the Applicant”)

Mr Christopher Fraser, 15 Carrick Knowe Drive, Edinburgh, EH12 7EB (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Frances Wood (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 be granted against the respondent

Introduction

This is an application under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The application seeks an eviction order.

Service of the proceedings and intimation of the Case Management Discussion (CMD) was effected upon the respondent by Sheriff Officers on 4 March 2025.

The CMD took place by teleconference on 1 May 2025 at 2.00 pm. The applicant was represented by Mr David Gray of Gilson Gray LLP. The respondent did not participate in the hearing.

Findings and Reasons

The property is 15 Carrick Knowe Drive, Edinburgh EH12 7EB. The applicant is Craig Morrison Trustee in Sequestration of Lendrick Gillies c/o Quantuma Advisory Limited LLP, 2 Turnberry House, 175 West George Street, Third Floor, Glasgow G2 2LB. The respondent is Mr Christopher Fraser who is the tenant.

A private residential tenancy was entered into which commenced on 1 October 2022. The heritable proprietor and landlord was Mr Lendrick Gillies. The rent, in terms of the lease, was £900 per calendar month payable in advance.

Mr Gillies was sequestrated by the Accountant in Bankruptcy on 11 June 2024. The applicant in this eviction application, Mr Craig Morrison, has been appointed to act as Trustee of Mr Gillies pursuant to section 78(1) of the Bankruptcy (Scotland) Act 2016. A relevant copy of the extract of the Registers of Insolvencies has been produced. Title to the property vests in the applicant Mr Morrison. He has title and interest to bring the current application before the tribunal.

The applicant in his role as Trustee with duties amongst other things to contact creditors, assess claims, and ingather assets to raise funds to pay dividends to the creditors of Mr Gillies, has determined that the let property should be sold. There are significant mortgage arrears and the property faces imminent repossession by the mortgage lender if it cannot be sold on a voluntary basis. The applicant has agreed his proposed actions, including seeking the eviction order, with the heritable creditor which has already served Calling Up Notices to facilitate the sale of the property and avoid the need for repossession proceedings. Any surplus funds, once the lender has been repaid, will be ingathered by the Trustee to the benefit of the creditors of Mr Gillies. Evidence of the agreement from the heritable creditor confirming the position has been produced.

On or about 1 August 2024 a notice to leave was issued to the respondent by Sheriff Officers. The ground for eviction quoted in the notice to leave was ground 1. The Notice to Leave expired on 25 October 2024. Sufficient statutory notice was given.

Gilson Gray LLP has been instructed by the applicant in the sale of the property once vacant possession has been obtained. A copy of the estate agency mandate has been produced.

The tribunal was satisfied on the basis of the credible and reliable evidence produced that it is the applicant's genuine intention to sell the let property.

The tribunal proceeded to consider the issue of reasonableness on the making of an eviction order.

The respondent has no opposition to the application and understands the circumstances which give rise to it. Direct communications have taken place between the applicant's representative and a family member of the respondent. It is agreed that

no eviction will be undertaken before the end of the current school academic year at the end of June 2025.

A relevant Section 11 notice has been issued to the relevant local authority. The tribunal was satisfied that the respondent will be provided with alternate temporary accommodation in the event of an eviction order being made against him. The respondent has already entered into communications with the City of Edinburgh Council regarding his circumstances.

Weighing up the respective circumstances of the parties, the tribunal concluded that it was reasonable to grant the eviction order. The tribunal postponed the date for implementation of the eviction until 1 July 2025 in accordance with the agreement reached between the parties.

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.

R.Mill

1 May 2025

Legal Member

Date