

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 (“the Act”)

Chamber Ref: FTS/HPC/EV/25/0183

Re: Property at 53 High Street, Leslie, Glenrothes, Fife, KY6 3DQ (“the Property”)

Parties:

David McCafferty, Lorraine McCafferty, 64 Cornhill Road, Glenrothes, Fife, KY7 4TJ (“the Applicants”)

James Fyffe, 53 High Street, Leslie, Glenrothes, Fife, KY6 3DQ (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mr N Allan (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. This is a Rule 109 application received on 17th February 2025. The Applicants are seeking an eviction order under ground 1 of schedule 3 to the Act. The Applicants’ representative lodged a copy of a private residential tenancy agreement between the parties commencing on 20th February 2020, a notice to leave with evidence of service, section 11 notice with evidence of service, and evidence of intention to sell.
2. Notification of the application and Case Management Discussion was made upon the Respondent by Sheriff Officer on 7th April 2025.

The Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by telephone conference on 16th June 2025. Neither party was in attendance. The Applicants were represented by Mr Jackson Deane, Solicitor.

4. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
5. Mr Deane said the Applicants had not had any contact from the Respondent since January 2025. The Applicants are approaching retirement and wish to sell the Property to top up their pensions. One of the Applicants suffers from a disability. Furthermore, modifications to their current property are required, and sale of the Property will assist in funding the modifications. The Applicants do not let any other properties. There is no mortgage on the Property.
6. Responding to questions from the Tribunal, Mr Deane said the Applicants were not aware of whether the Respondent is in employment or whether any benefits are in payment. Mr Deane said the Applicants were not aware of anyone else living in the Property. Mr Deane said he had not been made aware of any rent arrears.
7. The Tribunal adjourned to allow Mr Deane to contact the Applicants to obtain further information.
8. Upon reconvening, Mr Deane said he had spoken to the letting agent, who informed him that all payments of rent were made by standing order from the Respondent's bank account. No issue had ever been raised in respect of benefit payments and there were no rent arrears. The letting agent said there may be children living in the Property but there was no further detail available.
9. The Tribunal adjourned to consider its decision.

Findings in Fact and Law

10.
 - (i) Parties entered into a private residential tenancy in respect of the Property which commenced on 20th February 2020.
 - (ii) Notice to leave has been served upon the Respondent.
 - (iii) The Applicants intend to sell the Property.
 - (iv) The Applicants are entitled to sell the Property.
 - (v) The Applicants intends to sell the Property or at least put it up for sale within three months of the Respondent ceasing to occupy the Property.
 - (vi) It is reasonable to grant an eviction order.

Reasons for Decision

11. Ground 1 of Schedule 3 of the Act provides that it is an eviction ground if the Landlord intends to sell the let property. The Tribunal may find that the ground is met if the landlord is entitled to sell the let property, intends to sell it for market value, or at least put it up for sale, within three months of the tenant ceasing to occupy it, and the Tribunal is satisfied that it is reasonable on account of those facts to issue an eviction order. The Tribunal is satisfied that ground 1 is met.
12. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
13. The Applicants are approaching retirement age and seek release of funds to top up their pensions. Funds are also sought to undertake modification to the Property in respect of a disability.
14. The Respondent did not attend at the CMD to put forward any arguments in respect of reasonableness. The Tribunal considered the limited information it was provided with on the Respondent's circumstances. The Tribunal observed that it was unusual for a landlord not to know who was living in the Property. The Tribunal took into account that there may be children in the Property, who may be impacted by the granting of an eviction order. However, in the absence of any further detail or any representations from the Respondent, the Tribunal was able to give limited weight to this information.
15. In all the circumstances, the Tribunal considered that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicants. It was incumbent upon the Respondent to attend or make representations to the Tribunal to indicate why an order should not be granted, and the Respondent failed to do so. The Tribunal considered it was reasonable to grant the order sought.

Decision

16. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 21st July 2025.

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.

H. Forbes

Legal Member

16th June 2025