



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/24/4567

Re: Property at 2E Fleming Road, Cumbernauld, North Lanarkshire, G67 1LG (“the Property”)

Parties:

Mr Tom Russell, 16 Carrick Road, Bishopton, PA7 5DY (“the Applicant”)

Ms Carol Hughes, 2E Fleming Road, Cumbernauld, North Lanarkshire, G67 1LG (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- Background

This is an application for an eviction order against the Respondent, who occupies the Property in terms of her private residential tenancy agreement with the Applicant. It called for a case management discussion at 10am on 28 May 2025, by teleconference. The Applicant was represented on the call by Ms Anne Kelly, of Property Store EK Ltd.. The Respondent was represented on the call by Ms Scott of Brown & Co., solicitors.

- Findings in Fact

1. On 28 August 2025, the Applicant's agent sent a notice to leave to the Respondent by email; stating an intention to rely on ground 12 of schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 ('the Act'); and that the first date an application could be made to the Tribunal for an eviction order on that ground would be 27 September 2025.
2. This application proceeds on the basis of that notice.

- Reasons for Decision

3. In terms of s.52(2) of the Act, the Tribunal is not to entertain an application which does not proceed on the basis of a valid notice to leave.
4. In this case, the notice relied on is invalid, as it gives a notice period that is one day short of that required. A failure of this type cannot be overlooked by the Tribunal, in terms of s.73 of the Act, as it is an error that materially affects the effect of the notice. One of the fundamental purposes of a notice to leave is to give sufficient notice to the tenant of the basis for any application for their eviction to follow.

- Decision

Application refused.

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.

Nairn Young

28th May 2025

Legal Member/Chair

Date