



**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/24/5011

**Re: Property at 53 Scott Place, Bellshill, North Lanarkshire, ML4 1LL (“the
Property”)**

Parties:

**Mr James Gallacher, 23 Hamilton Drive, Wainch, Gisborne, New Zealand (“the
Applicant”)**

**Mr Gary McKay, 53 Scott Place, Bellshill, North Lanarkshire, ML4 1LL (“the
Respondent”)**

Tribunal Members:

Alan Strain (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application for eviction and recovery of
possession be granted.**

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 30 October 2024;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 15 December 2023;
3. Notice to Leave dated 29 July 2024 and served by Sheriff Officer on 31 July 2024;
4. Section 11 Notice served by Sheriff Officer on 31 July 2024;
5. Email of 27 July 2024 from selling agents.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 22 May 2025. The Applicant did not participate but was represented by his Letting Agent Ms Stewart. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate. The Respondent did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that they should attend and the Tribunal could determine the matter in absence if they did not.

The Respondent's position

The Letting Agent informed the Tribunal that she had received an email from the Respondent asking for an update. He was in touch with the local authority regarding rehousing and was waiting on the eviction order in order to progress this.

The Respondent lived in the Property alone and was working.

The Applicant's position

The Applicant's position was that this was the only Property he let. There were a lot of issues recently which had cost him in terms of repair so he had decided now was the time to sell. He lives in New Zealand.

There were around £2,500 of rental arrears currently.

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. The parties let the Property under a Private Residential Tenancy Agreement (**PRTA**) commencing 15 December 2023;
2. Notice to Leave was dated 29 July 2024 and served by Sheriff Officer on 31 July 2024;
3. Section 11 Notice was served by Sheriff Officer on 31 July 2024;
4. 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;
5. The Applicant is in touch with selling agents;
6. The Applicant resides in New Zealand;
7. The Respondent is in rental arrears to the extent of £2,500;
8. The Respondent is in contact with the local authority housing department regarding rehousing;
9. The Respondent lives in the Property alone and is working.

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.

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

22/05/2025

Legal Member/Chair

Date

