

**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/24/5165**

**Property : 49 Swan Street, Kirkmuirhill, Lanark, South Lanarkshire ML11 9QP  
("Property")**

**Parties:**

**Catherine Fraser, 31 Laighlands Road, Bothwell G71 8AL ("Applicant")**

**Robert Sinclair and Jennifer Watson, 49 Swan Street, Kirkmuirhill, Lanark,  
South Lanarkshire ML11 9QP ("Respondent")**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Elizabeth Williams (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber)  
("Tribunal") determined to make an order for possession of the Property.**

**Background**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement which commenced on 12 June 2022; Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 12 March 2024 ("Notice to Leave"); Royal Mail proof of delivery on 13 March 2024; sales agreement with Patch Estate Agent dated 16 April 2024 regarding the sale of the Property; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003. A Case Management Discussion ("CMD") was fixed for 9 July 2025. The Application was served on the Respondent by sheriff officer on 16 April 2025. On 6 July 2025 the Applicant lodged a written representation and asked the Tribunal to include grounds 11, 12 and 13 as grounds for eviction.

## **Case Management Discussion**

A CMD took place before the Tribunal on 9 July 2025 by teleconference. The Applicant was in attendance, the Respondent was not. The Applicant told the Tribunal that she had not had recent contact with the Respondent. She said that the rent had not been paid since September 2024 and that communication had stopped at that point. The Applicant told the Tribunal that she had owned the Property since 2022 and she now wished to sell to raise capital. She said that she is a teacher with two young children and is currently on a career break. She said that the increase in mortgage costs contributed to her desire to sell. She said that she thought the Respondent lived in the Property with one child possibly aged 16. She said the Property has 3 bedrooms. The Applicant said she understood that both Respondents were working. She said that the rent had not been paid via benefits.

The Tribunal asked the Applicant why she wished to include grounds 11, 12 and 13. As regards ground 11, the Applicant said that the breach complained of was failure to give access for repairs and failure to maintain the garden. As regards repairs she said that the Respondent would not allow tradesmen access unless they had a disclosure check. She said she had been unable to gain access for a gas safety check to be carried out. The Applicant referred to complaints intimated to her by South Lanarkshire Council and to a letter from them dated 5 June 2025 which noted that the garden was not being properly maintained. As regards ground 12 the Applicant said the arrears are now £6500. The Tribunal noted that ground 13 is that the tenant has a relevant conviction but no evidence had been provided of a conviction. The Tribunal explained that a ground for eviction not included in the notice to leave can only be added with the permission of the Tribunal.

## **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property which commenced on 12 June 2022.
2. A Notice to Leave was served on the Respondent by recorded delivery post on 13 March 2024. It stated that an application for an eviction order would not be submitted to the Tribunal before 15 June 2024.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
4. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

## **Reasons for the Decision**

In terms of section 51 of the Act, the Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies. The Notice to Leave referred to ground 1 and 1A (although it was repealed in April 2024). The Applicant asked the Tribunal to grant an order for eviction on the basis of grounds 1, 11, 12 and 13. The request to include grounds 11, 12 and 13 was lodged with the Tribunal on 6 July 2025. Whilst a copy of the request was posted to the Respondent they would not receive it before the CMD. In light of that, and in light of there being no evidence to support ground 13, the Tribunal determined not to allow the application to include grounds 11, 12 or 13.

The Application proceeded on the basis set out in Ground 1 which is that the landlord intends to sell the Property. The evidence lodged with the application of intention to sell was sales agreement with Patch Estate Agent dated 16 April 2024 regarding the sale of the Property. The Tribunal determined that the ground for eviction had been established.

The Tribunal considered the question of reasonableness as set out in the documents lodged and the oral submissions from the Applicant. In all the circumstances, and in the absence of opposition by the Respondent, the Tribunal determined that it was reasonable to grant an order for possession of the Property.

## **Decision**

The Tribunal determined to grant an order for possession of the Property.

### **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.**

# J.Devine

**Legal Member**

**Date : 9 July 2025**