



**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/24/3659

Re: Property at 288A Links Street, Kirkcaldy, Fife, KY1 1SG (“the Property”)

Parties:

Mrs Vera Reilly, Burnside, Lathrisk Road, Freuchie, KY15 7HX (“the Applicant”)

**Mr Tomasz Zabek, Mrs Joanna Zabek, 288A Links Street, Kirkcaldy, Fife, KY1
1SG (“the Respondent”)**

Tribunal Members:

Alan Strain (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted but that execution of the order should be postponed to 30 September 2025.

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 13 August 2024;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 14 December 2023;
3. Notice to Leave dated and served by email on 29 April 2024;
4. Section 11 Notice and email serving on local authority dated 12 August 2024;
5. Letter from Solicitors dated 6 August 2024.

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Case Management Discussion (CMD)

The case called for a CMD by conference call on 2 July 2025. The Applicant did not participate but was represented by her Letting Agent, Mr Rodger. The Respondents participated and represented themselves.

The Respondents' position

The Respondents did not seek to oppose the order for recovery of possession but had been in contact with the local housing department and had been searching the private rented market without success. The local authority informed them that they had to stay in the Property until the Tribunal granted an order.

The Respondents have a daughter aged 12 and son aged 2 who reside with them.

The Applicant's position

The Applicant's position was that she and her husband were retired, in advancing years and wished to realise the capital for their retirement. They had no other rental properties and there was no mortgage over the Property.

Decision and Reasons

The Tribunal considered the documentary evidence and the Parties' respective positions.

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. Private Residential Tenancy Agreement (**PRTA**) commencing 14 December 2023;
2. Notice to Leave was dated and served by email on 29 April 2024;
3. Section 11 Notice was served by email on local authority dated 12 August 2024;
4. The Applicant had instructed solicitors as confirmed by letter of 6 August 2024;
5. 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 Respondents ceasing to occupy it;
6. The Respondents did not oppose the order being granted;
7. The Respondents are in contact with the local authority homelessness department and live in the Property with their daughter aged 12 and son aged 1.

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.

The Tribunal weighed the competing interests of the Parties and determined that it was reasonable in the circumstances to grant the application for eviction and recovery of possession and to postpone execution of the order to 30 September 2025 under Rule 16A of the Tribunal Procedure Rules to give the local authority additional time to source suitable alternate accommodation.

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

2 July 2025

Legal Member/Chair

Date