

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 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 (Act)

Chamber Ref: FTS/HPC/EV/24/4274

Re: Property at 12, Walker Street, Lochgelly, Fife, KY5 9BQ (“the Property”)

Parties:

Mr James McDougall, 10 Dundonald Road, Rosyth, KY11 2BG (“the Applicant”)

Mr Andrew Murray, 12, Walker Street, Lochgelly, Fife, KY5 9BQ (“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 2 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 11 September 2024;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 17 June 2024;
3. Notice to Leave dated and served by email on 28 May 2024;
4. Section 11 Notice and email serving on local authority dated 17 June 2024;
5. Letter from estate agents dated 25 October 2024; and
6. Email from Respondent with written submissions dated 26 June 2025.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 2 July 2025. The Applicant participated and represented himself. The Respondent participated and represented himself.

The Respondents' position

The Respondent did not seek to oppose the order for recovery of possession but due to his personal circumstances sought further time to obtain alternate accommodation. He had been in contact with the local housing department and had been searching the private rented market without success. The Respondent has an 11 year old son who resides with him and who is being tested for Autism/ADHD.

The Respondent has health problems which include issues with his sight and heart. Alternative housing is being assessed in conjunction with occupational health.

The Respondent is cared for by his daughter.

He confirmed that the local authority were aware of the eviction application. He was to go back to them after the outcome of the Tribunal was known.

The Applicant's position

The Applicant's position was that he had inherited the Property from his late father and wished to sell it to pass the proceeds on to his late father's grandchildren.

Discussion

In discussion with the Parties both agreed that if the order were granted it would be reasonable to postpone execution until 2 September 2025. The Tribunal took time to explain the time frames and the mechanics of enforcement of an order.

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 17 June 2024;
2. Notice to Leave was dated and served by email on 28 May 2024;
3. Section 11 Notice was served by email on local authority dated 17 June 2024;
4. The Applicant had instructed estate agents as confirmed by letter of 25 October 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 Respondent ceasing to occupy it;
6. The Respondent did not oppose the order being granted;
7. The Respondent is in contact with the local authority homelessness department and lives in the Property with his son aged 11 who is being tested for autism/adhd;
8. The Respondent has health issues of his own relating to his sight and heart and receives care and support from his daughter.

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 2 September 2025 under Rule 16A of the Tribunal Procedure Rules.

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