



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51 Private Housing
(Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

Chamber Ref: FTS/HPC/EV/24/4724

Re: Property at 7 Pendreich Terrace, Bonnyrigg, Midlothian, EH19 2DT (“the Property”)

Parties:

Susan Aitken, as Executor of Norma Walker deceased, 46 East Main Street, Uphall, West Lothian, EH52 5HY (“the Applicant”)

Mr William Young, Mrs Kathleen Young, 7 Pendreich Terrace, Bonnyrigg, Midlothian, EH19 2DT (“the Respondents”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondents in favour of the Applicant. The Tribunal also ordered a delay in execution of the order until 28 August 2025.

Background

1. The Applicant seeks an eviction order in terms of Section 51 and Ground 1 of schedule 3 of the 2016 Act. A section 11 notice, tenancy agreement, Notice to leave, a copy of the grant of Confirmation from the Sheriff Court and death certificate were submitted with the application.
2. A copy of the application was served on the Respondents, and the parties were notified that a CMD would take place by telephone conference call on 19 June 2025 at 2pm.

3. The CMD took place on 19 June 2025. The Applicant participated, supported by her husband. The Respondent's both participated and were represented by their son Mr Stephen Young.

Summary of Discussion

4. The Legal Member noted that the name of the Applicant appeared to be incorrect. Mrs Aitken confirmed that she was happy to amend to "Susan Aitken as Executor of Norma Walker, deceased".
5. Mr Stephen Young told the Tribunal that the application is not opposed. This was confirmed by both Respondents. He said that the Respondents have applied to be re-housed by the Local Authority and have an appointment tomorrow to discuss the application, following the CMD. They require more suitable accommodation as Mr Young senior has health issues which affect his mobility. They have been advised that they will not be a priority for re-housing until an eviction order is granted. In response to questions from the Tribunal, Mr Young said that the property is only occupied by the Respondents. In relation to the issue of whether a delay in enforcement of the order should be considered, Mr Young said that temporary accommodation would not be suitable for his father and requested an additional 4 weeks to allow additional time for the Council to identify a suitable property for them. Mrs Aitken told the Tribunal that the lender is in the process of recovering possession of the property. However, she has been keeping them updated and has no objection to an additional 4 weeks in the circumstances.

Findings in Fact

6. The Applicant is one of the Executors of the owner and landlord of the property, who died on 29 August 2023.
7. The Respondents are the tenants of the property.
8. The Applicant requires to sell the property as she is winding up the estate of the deceased landlord.
9. The Applicant served a Notice to leave on the Respondents on 12 February 2024.
10. The Respondents have not secured alternative accommodation but have applied to the Local Authority and are receiving assistance from a housing officer. The application is not opposed.
11. The first Respondent has health issues and requires more suitable accommodation to meet his needs.

12. The heritable creditor is seeking recovery of the property.

Reasons for Decision

13. The application was submitted with a Notice to Leave dated 11 February 2024 together with an email from the respondents confirming that they received it on 12 February 2024. The Notice states that an application to the Tribunal is to be made on ground 1, the landlord intends to sell the let property.
14. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice which was sent to the Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
15. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
16. Ground 1 of schedule 3 (as amended) states, "(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."
17. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Applicant intends to sell the property and that part 1 of ground 1 is established.
18. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted that the Applicant requires to sell the property as the Landlord is deceased and her estate is to be wound up. The heritable creditor is planning to recover possession of the property if it is not sold by the Executor. The Tribunal also noted that, although they have not yet secured alternative accommodation, the Respondents do not oppose the application, are receiving assistance from the Local Authority and expect to be re-housed. Their lack of opposition, together with the Applicant's reasons for selling the property, lead the Tribunal to conclude that it would be reasonable to grant the order for eviction.
19. The Respondents requested a delay in enforcement of 4 weeks, as they are concerned about the possibility of requiring temporary accommodation while the Council identifies a suitable property. This was not opposed by the Applicant.

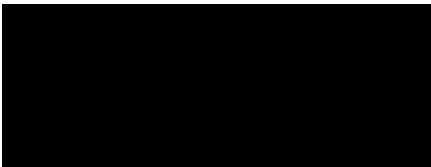
20. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act and that ground 1 has been established. For the reasons outlined in paragraph 17, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

21. The Tribunal determines that an eviction order should be granted against the Respondents and that a delay in enforcement should be ordered.

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.



Josephine Bonnar, Legal Member

19 June 2025