



**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**

Reference number: FTS/HPC/EV/25/0521

**Re: Property at 43A High Street, Banff, AB45 1AN (“the Property”)**

**Parties:**

Michael Wood and Christina Wood, residing at Caledonia, Beaufighter Road, Fochabers, IV32 7QZ (“the Applicants”)

And

Carole Pitt and Jack Newcombe, residing at 43A High Street, Banff, AB45 1AN (“the Respondents”)

**Tribunal Member:**

**Paul Doyle (Legal Member)**  
**Elizabeth Williams (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) dismisses the application for possession of the Property.**

**Background**

1. The Applicants seek recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the “2016 Act”). The Applicants lodged with the Tribunal Form E dated 03/02/2025. The documents produced were a Tenancy Agreement, a Notice to leave, served on 19 November 2024, together with a notice under s.11 of the Homelessness (Scotland) Act 2003.

2 By interlocutor dated 10 March 2025, the application was referred to this tribunal. The First-tier Tribunal for Scotland (Housing and Property Chamber) served

notice of referral on both parties, directing the parties to make any further written representations.

3. A Case Management Discussion took place before the Tribunal by telephone conference at 2.00pm on 4 July 2025. Neither the Applicants nor the Respondents appeared, nor were they represented.

#### The Applicants Position

4. The Applicants say

(i) The Applicants and the Respondents entered into a Private Residential Tenancy Agreement for the Property on 31 May 2024.

(ii) Clause 35 of the tenancy agreement says that the Respondents will not be allowed to keep any pets in the property without the prior written consent of the Applicants.

(iii) After the Respondents took entry, the Applicants discovered that they are keeping one dog and two cats in the property. The Applicants have neither been asked for nor have they granted consent to the Respondents keeping pets in the property. The Applicants say that the Respondents pets are a nuisance and neighbours have complained about them.

(iv) The applicants seeks recovery of possession of the property saying that the Respondents have breached the terms of the tenancy agreement.

#### The Application

5. The application is fundamentally flawed because it is raised against

*Jack Pitt and Carole Newcombe.*

6. The Respondents' names have become confused. The application is not raised against the tenants to whom the property is leased.

7. Because the Respondents are not properly designed, the application has not been served on either of the Respondents.

8. If we were to consider the application, we would probably suggest that the Applicants need to provide greater specification of how and when they became aware that pets are kept in the property, and the number, nature, and dates of complaints from neighbours.

9. No-one has appeared to move the application.

### **Reasons for the Decision**

10. The Tribunal determined to dismiss the application for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for repossession is not made out. The applicants did not attend and were not represented, so that no-one moved the application. The application has not been properly served because the respondents are incorrectly named.

### **Decision**

The application is dismissed because of defects in the designation of the Respondents and for want of insistence.

### **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.**

**Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

**Paul Doyle**  
**Legal Member**

**4 July 2025**