



**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 (“the 2016 Act”)**

Chamber Ref: FTS/HPC/EV/25/0221

**Re: Property at 1 Dubh MacDonald Road, Inverlochy, Fort William, PH33 6JA
 (“the Property”)**

Parties:

**Mr Stuart Campbell, 3 Prestonfield Court, Saline, Fife, KY12 9UU (“the
Applicant”)**

**Mr Carl McGinty, 1 Dubh MacDonald Road, Inverlochy, Fort William, PH33 6JA
 (“the Respondent”)**

Tribunal Members:

Sarah O'Neill (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an eviction order should be granted in favour of the
Applicant against the Respondent.**

Background

1. An application was received from the Applicant on 17 January 2025 under rule 109 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (‘the 2017 rules’) seeking recovery of the property under Ground 1 (landlord intends to sell) as set out in Schedule 3 of the 2016 Act.
2. Attached to the application form were:

- (i) Copy Notice to Leave addressed to the Respondent dated 15 October 2024 citing ground 1, and stating the date before which proceedings could not be raised to be 15 January 2025, together with proof of sending by email to the Respondent on 15 October 2024.
 - (ii) Copy notice under section 11 of the Homelessness etc. (Scotland) Act 2003 addressed to Highland Council, together with proof of sending by email on 15 January 2025.
 - (iii) Copy letter from the Applicant to MacPhees Solicitors and Estate Agents dated 15 October 2024 instructing them to sell the property.
 - (iv) Copy response from MacPhees Solicitors and Estate Agents to the Applicant dated 15 October 2024, confirming their agreement to sell the property.
3. On 20 February 2025, following a request from the Tribunal administration, the Applicant submitted a copy of the private residential tenancy agreement between the parties, which commenced on 1 October 2021.
4. The application was accepted on 20 March 2025.
5. Notice of the case management discussion (CMD) scheduled for 17 July 2025, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the Tribunal on 23 May 2025.
6. No written representations were received from the Respondent prior to the CMD.
7. An email was received from the Applicant on 16 June 2025 advising that he would be out of the country on the date of the CMD and that his wife, Mrs Hannah Campbell, would therefore represent him at the CMD

The case management discussion

8. A CMD was held by teleconference call on 17 July 2025. Mrs Hannah Campbell represented the Applicant. The Respondent was not present or represented on the teleconference call. The Tribunal delayed the start of the CMD by 10 minutes, in case the Respondent had been detained. He did not attend the teleconference call, however, and no telephone calls, messages or emails had been received from him.
9. The Tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date and time of a CMD had been duly complied with. The Tribunal therefore proceeded with

the CMD in the absence of the Respondent, in terms of rule 29 of the 2017 rules.

Submissions on behalf of the Applicant

10. Mrs Campbell confirmed that the Applicant sought an eviction order. She said that it remained the Applicant's intention to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it. She explained that the Applicant was approaching retirement age. He intended to sell the property in order to pay off the mortgage on their own home, as well as some other debts which he and Mrs Campbell had accrued during a 20 month period when she had been out of work.
11. The Applicant has no other rental properties. He bought the property in 2009, and it had always been his intention to sell the property to allow him to retire. While the property currently has an outstanding mortgage over it, there is significant equity in the property, which the Applicant now wishes to realise. He had considered selling the property with the Respondent in situ as a sitting tenant, but wished to sell it for market value and would achieve a better price on the open market.
12. Mrs Campbell did not know a great deal about the Respondent's circumstances. She said that he had consistently paid his rent, and that she believed that he had kept the property in good condition. While there had been little contact from the Respondent since the Notice to Leave was served on him, she believed that he had been in contact with Highland Council regarding rehousing.
13. Mrs Campbell said that she believed the Respondent to be living alone in the property. She believed that he is in his 40s and in employment. She was unaware of any health issues or disabilities. She did not believe that he is in receipt of housing benefit.
14. The Respondent had been aware for some time that the Applicant intended to sell the property. The Applicant had served a previous Notice to Leave on the Respondent in May 2023, but the subsequent eviction application had not proceeded to a Tribunal due to issues with the paperwork.

Findings in fact

15. The Tribunal made the following findings in fact:

- The Applicant is the sole owner of the property. He is therefore entitled to sell the property.
- The Applicant is the registered landlord for the property.
- There is a private residential tenancy in place between the parties, which commenced on 1 October 2021.
- The Notice to Leave was validly served on the Respondent by email on 15 October 2024.
- The Applicant intends to sell the property or put it up for sale within 3 months of the Respondent ceasing to occupy it.

Reasons for decision

16. The Tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties.
17. The Tribunal considered whether the legal requirements of Ground 1, as set out in Schedule 3 of the 2016 Act (as amended), had been met. Ground 1 states:

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, and

(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.

18. The Tribunal determined that as the owner of the property, the Applicant is entitled to sell the property.
19. The Tribunal then considered whether the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it. The Tribunal noted that the Applicant had produced a letter from MacPhees Solicitors and Estate Agents dated 15 October 2024, confirming their agreement to sell the property. The Tribunal considers that this is evidence tending to show that the Applicant has the intention set out in sub-paragraph 2(b) of Ground 1.
20. The Respondent had not disputed that the Applicant was entitled to, or intended to, sell the property. Having had regard to the oral evidence of Mrs Campbell and the letter from MacPhees Solicitors and Estate Agents, the Tribunal determined that the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it.
21. The Tribunal then considered whether it was reasonable to make an order for recovery of possession. In doing so, it took into account all of the circumstances of the case.
22. The Tribunal noted that the Applicant intends to sell the property to fund his retirement and pay off his mortgage and other debts. It also noted that he has no other rental properties.
23. The available evidence regarding the Respondent's circumstances was limited, in the absence of either any representations from him or any appearance by him at the CMD. The Tribunal noted that he appears to have been a good tenant, who pays his rent and keeps the property in good condition. He appears to be in employment and has no dependants living with him. There is no evidence that he has any significant health issues or disabilities.
24. The Tribunal noted that the Respondent had been aware of the Applicant's intention to sell for more than two years. The Tribunal noted that a previous Notice to Leave had been served on 17 May 2023. A previous tribunal application (reference no: FTS/HPC/EV/24/1469) was rejected on 29 May 2024, as it had been lodged more than 6 months after the expiry of the Notice to Leave.

25. Having carefully considered all of the evidence and all of the circumstances of the case as set out above, the Tribunal considered that on balance it was reasonable to grant an eviction order. It gave particular weight to the lack of opposition to the application from the Respondent, and the fact that he had been aware of the Applicant's intention to sell the property for a significant period of time.

26. The Tribunal therefore determined that an order for recovery of possession should be granted in favour of the Applicant.

Decision

The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of 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.

S.O'Neill

Sarah O'Neill
Legal Member/Chair

— 17 July 2025
Date