



**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/25/0668**

**Re: Property at 32 Cawdor Drive, Glenrothes, Fife, KY6 2HN (“the Property”)**

**Parties:**

**Mr Calum Gordon, Ms Alison Gordon, 40 Hillside Grove, Bo’ness, EH51 9RN (“the Applicants”)**

**Miss Michelle Hurley, 32 Cawdor Drive, Glenrothes, Fife, KY6 2HN (“the Respondent”)**

**Tribunal Members:**

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

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted in favour of the Applicants against the Respondent. The Tribunal delayed execution of the order until 18 September 2025.**

**Background**

1. An application was received from the Applicant on 17 February 2025 under rule 109 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (‘the 2017 rules’). The application sought recovery of the property under Ground 4 (landlord intends to live in let property) as set out in Schedule 3 of the 2016 Act, as amended.
2. Attached to the application form were:
  - (i) Copy private residential tenancy agreement between the parties, which commenced on 13 April 2024.

- (ii) Copy Notice to Leave dated 18 November 2024 citing ground 4, and stating the date before which proceedings could not be raised to be 15 February 2025, together with proof of sending by email on 18 November 2024.
  - (iii) Copy notice under section 11 of the Homelessness etc (Scotland) Act 2003 to Fife Council, together with proof of sending by email on 17 February 2025.
  - (iv) Email from the first Applicant, Mr Calum Gordon, to Premier Rentals Fife dated 17 February 2025 regarding the reasons for the eviction application.
3. The application was accepted on 14 March 2025.
4. 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 22 May 2025.
5. No written representations were received from the Respondent prior to the CMD.

### **The case management discussion**

6. The CMD was held by teleconference call on 17 July 2025. The Applicant was represented by Mrs Cheryl Marshall of Premier Rentals Fife, who was accompanied by her colleague, Ms Victoria Rossiter, as an observer. The Respondent was present on the teleconference call and represented herself.

### **Submissions on behalf of the Applicant**

7. Mrs Marshall asked the Tribunal to grant an eviction order in favour of the Applicants. She said that both Applicants intended to move into the property once the Respondent had moved out. Mr Gordon had grown up in the property, which was his family home. The property had previously been in his father's name, but had been transferred to the Applicants in 2023 when his father's health had deteriorated.
8. Mr Gordon's father is 85 years old and has dementia. The Applicants are currently living in Bo'ness, and now intend to move back to Glenrothes to live in the property, and to be nearer to him. They intend to help with care for Mr Gordon's father and his partner, who is in her 90s, and who live close to the property. The Applicants hope that if they move into the property, this will help to create a familiar environment for Mr Gordon's father.
9. Mrs Marshall was unable to confirm whether it was the intention of the Applicants that Mr Gordon's father may eventually also move into the

property. She was also unsure as to whether the Applicants intended to sell their current home in Bo'ness when they moved.

### **The Respondent's submissions**

10. The Respondent told the Tribunal that she entirely understood the Applicants' reasons for seeking an eviction order. She said that she was happy to leave the property. She had been told by Fife Council, however, that if she wished to be rehoused by them, she would need to wait for an eviction order to be granted.
11. The Respondent has been living in the property since 2015. Mr Gordon's father was her landlord prior to the transfer into the Applicants' names. She is employed as an early years officer within a private nursery. She has four children aged 2, 10, 12 and 14, all of whom live with her. The three older children all attend schools in the local area. She is hopeful that the Council will find them a permanent home.
12. She is aware that initially she and her children may be placed in temporary homeless accommodation, but is willing to accept this in order to secure more permanent accommodation. She told the Tribunal that she had expected to move out in February as required by the Notice to Leave, and had in fact packed many of her belongings then. She just wanted to get the eviction over with, so that she and her family could make a fresh start.

### **Findings in fact**

13. The Tribunal made the following findings in fact:
  - The Applicants are joint owners of the property.
  - Mr Gordon is the registered landlord for the property.
  - There is a private residential tenancy in place between the Applicants and the Respondent, which commenced on 13 April 2024.
  - The Respondent has been living in the property for around 10 years.
  - The Notice to Leave was validly served on the Respondent by email by the Applicant on 18 November 2024.
  - The Applicants intend to live in the property as their only or principal home once the Respondent had moved out.

### **Reasons for decision**

14. 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. It therefore proceeded to make a decision at the CMD without a hearing in terms of rules 17(4) and 18 (1) (a) of the 2017 rules.

15. The Tribunal first considered whether the legal requirements of ground 4, as set out in Schedule 3 of the 2016 Act (as amended) had been met. Ground 4 states:

***“Landlord intends to live in property***

*4(1) It is an eviction ground that the landlord intends to live in the let property.*

*(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—*

*(a) the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months, and*

*(b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.*

*(3) References to the landlord in this paragraph—*

*(a) in a case where two or more persons jointly are the landlord under a tenancy, are to be read as referring to any one of them,*

*(b) in a case where the landlord holds the landlord's interest as a trustee under a trust, are to be read as referring to a person who is a beneficiary under the trust.*

*(4) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the landlord has that intention.”*

16. While there was no affidavit by the Applicants before the Tribunal, this is not a requirement, but is simply evidence tending to show that the landlord(s) have the intention to live in the property. The Tribunal had regard to the oral evidence given on the Applicants' behalf and to the email from Mr Gordon dated 17 February 2025. The Applicants' intention to live in the property was not challenged by the Respondent. The Tribunal therefore determined that the Applicants intend to live in the property as their only or principal home for at least 3 months.

17. The Tribunal then carefully considered whether it was reasonable to issue an eviction order in all of the circumstances of the case.

18. The Tribunal noted that the current situation was difficult for both parties. It was clear that the Applicants were keen to get the property back as soon as possible so that they could move into it and be closer to Mr Gordon's father, in order to care for him.
19. The Respondent has been living in the property for 10 years and has four dependant children. She said that she understood the Applicants' situation. She was very clear that she did not wish to oppose the application, as an eviction order would assist her in finding a new home for herself and her family. While it may take time for her children and herself to secure permanent social housing, she is prepared to live in temporary accommodation for a time, should that be necessary in order to achieve that goal.
20. Having carefully considered the evidence and all of the circumstances of the case as set out above, the Tribunal determined that on balance it was reasonable to grant an eviction order. The Tribunal gave particular weight to the fact that the Respondent did not wish to oppose the application and hoped to secure council housing for herself and her family once an eviction order was granted.
21. Before deciding to grant the order, the Tribunal had sought the views of both parties on the possibility of delaying execution of the eviction order in terms of rule 16A of the 2017 rules, in order to give the Respondent more time to find alternative accommodation.
22. Mrs Marshall said that she did not think the Applicants would object to the Respondent being given an additional month beyond the standard timescale. The Respondent said that it might be helpful if she could have a bit longer, in case this was needed.
23. The Tribunal therefore determined that an order for recovery of possession should be granted in favour of the Applicants. The Tribunal considered that it would be reasonable in all the circumstances to delay execution of the order for a month until 18 September 2025.

## **Decision**

The Tribunal grants an order in favour of the Applicants against the Respondent for recovery of possession of the property. The Tribunal delayed execution of the order until 18 September 2025.

## **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.

# Sarah O'Neill

Sarah O'Neill  
Legal Member/Chair

17 July 2025  
Date