

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 and Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules)

Ref: FTS/HPC/EV/25/0281

Re: Property at 51 Kings Place, Rosyth, Fife, KY11 2RU (the Property)

Parties:

Mr Graham Irwin, 18 Johnston Crescent, Dunfermline, KY11 3BU (the Applicant)

Mr Kenneth Smith, 51 Kings Place, Rosyth, Fife, KY11 2RU (the Respondent)

Tribunal Members:

Ms Susanne L. M. Tanner K.C. (Legal Member)

Mrs Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal):

(1) was satisfied that Ground 1 in Schedule 3, Part 1 to the 2016 Act was established by the Applicant, in that on the day the tribunal considered the application for an eviction on its merits: the Applicant as registered proprietor intends to sell the let Property for market value, or at least put it up for sale within three months of the Respondent ceasing to occupy it; and that it was reasonable to make an eviction order in the circumstances; and made an order for eviction in terms of Section 51 of the 2016 Act.

(2) The decision of the tribunal was unanimous

Statement of Reasons

Procedural Background

1. The Applicant's Representative made an application to the tribunal on 23 January 2025 in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules). The Applicant seeks the Respondent's eviction from the Property under Ground 1 of Schedule 3.
2. The Applicant provided the following documents with the Application:
 - 2.1. Paper apart;
 - 2.2. Copy Notice to Leave dated 7 October 2024 and proof of delivery;
 - 2.3. Letter form Martin & Co Dunfermline dated 3 October 2024;
 - 2.4. Rent statement;
 - 2.5. Rent increase notice;
 - 2.6. Copy section 11 Notice to the Local Authority with confirmation of delivery by email.
3. The tribunal's administration obtained a copy of the Title deeds for the Property which shows that the Applicant is the registered proprietor.
4. The tribunal's administration obtained a copy of the registered landlord details for the Property which shows that the Applicant is registered landlord.
5. The Application was accepted for determination. The tribunal sent letters of notification dated 10 April 2025 to both parties with the date, time and arrangements for joining the Case Management Discussion ("CMD") teleconference in relation to the Application on 23 June 2025 at 1400h. The Application paperwork was personally served on the Respondent by Sheriff Officers on 11 April 2025. The Respondent was told that if he wished to submit written representations these should be sent to the tribunal by 1 May 2025.
6. The Respondent did not submit any written representations to the tribunal or make any contact with the tribunal.

CMD: 23 June 2025, 1400h, Teleconference

7. The Applicant's Representative, Mr Deane, joined the CMD.

8. The Respondent, Mr Smith, did not attend or made any contact with the tribunal. The tribunal was satisfied that the Respondent was served with Application and notification of the CMD on 11 April 2025 by Sheriff Officers and that the requirements of rule 24(1) of the 2017 Rules regarding the giving of notice of a hearing had been duly complied with. The tribunal proceeded with the Application upon the representations of the party present and all the material before it.
9. The Applicant's Representative explained that the Applicant needs to sell the Property because of health reasons. The Applicant has recently had surgery and is suffering financial implications as a result of absence from employment. The Applicant is considering early retirement. The Applicant wishes to sell the Property to support him at present and during early retirement. This is the Applicant's only rental property. The Applicant wants to sell the Property once the Respondent has moved out. The Applicant has instructed an estate agent. There are rental arrears which the Respondent has made no proposals to pay. The Applicant instructed an inspection in May 2025, which was the last time the Applicant and Respondent spoke to one another. The Applicant said that the Respondent does not have any disabilities or vulnerabilities that they have been made aware of.

10. The tribunal makes the following findings-in-fact:

- 10.1. The Applicant is the registered proprietor of the Property.
- 10.2. The Applicant wishes to sell the Property with vacant possession and realise the proceeds.
- 10.3. The Applicant is in his sixties and has had absence from work due to ill health and medical treatment.
- 10.4. The Applicant is considering early retirement.
- 10.5. The Property is the Applicant's only rental property.
- 10.6. The Applicant wishes to sell the Property with vacant possession to realise the proceeds to assist with the financial implications of absence from employment and to provide for early retirement.
- 10.7. There is a private residential tenancy agreement between the Applicant and the Respondent for the Property which started on 18 March 2020.

- 10.8. On 7 October 2024, a Notice to Leave containing ground 1 of Schedule 3 to the 2016 Act was served on the Respondent.
- 10.9. The Applicant has given the Respondent at least 84 days' notice that he requires possession.
- 10.10. The Application to the tribunal was made on 23 January 2025.
- 10.11. The Applicant has instructed a sales agent in respect of sale of the Property with vacant possession.
- 10.12. The Applicant intends to sell the Property on the open market or at least market it for sale within three months of vacant possession.
- 10.13. The Respondent has not stated any defence to the Application.
- 10.14. There are no children under 16 residing in the Property.
- 10.15. The Respondent has no disabilities.

11. Findings in fact and law

- 11.1. The tribunal is satisfied that the facts required in paragraph 1 of Schedule 3 to the 2016 Act have been established.
- 11.2. The tribunal is satisfied that it is reasonable to make an order for eviction.

Discussion

12. The order for eviction is sought in terms of Section 51 and paragraph 1 of Schedule 3 to the 2016 Act. The tribunal was satisfied that the requirements of those provisions have been met. The tribunal is satisfied that the Applicant intends to sell the Property or at least put it up for sale within three months of an eviction order.
13. In relation to reasonableness, reference is made to the tribunal's findings in fact. The Respondent has not opposed the Application or made any submissions about reasonableness of eviction. The tribunal was satisfied that it was reasonable to evict the Respondent in the circumstances of the case.

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.Tanner KC

23 June 2025

Legal Member/Chair