



**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**

**Chamber Ref: FTS/HPC/EV/24/4897**

**Re: Property at 2 Market Street, Castle Douglas, DG7 1BE (“the Property”)**

**Parties:**

**Ms Kirsty Barbour, 50 Rotchell Park, Dumfries, DG2 7RJ (“the Applicant”)**

**Ms Audrey Robertson, 2 Market Street, Castle Douglas, DG7 1BE (“the Respondent”)**

**Tribunal Members:**

**Andrew Cowan (Legal Member) and Ahsan Khan (Ordinary Member)**

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

**Background**

1. This is an application for an eviction order in relation to a Private Residential Tenancy (“PRT”) in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The PRT had been granted by the Applicant to the Respondent and commenced on 15<sup>th</sup> November 2019.
2. The application was lodged with the Tribunal on 3<sup>rd</sup> April 2024.
3. The application relies upon a Notice to Leave dated 23<sup>rd</sup> July 2024, issued in terms of section 50 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”), served upon the Respondent, all in accordance with the provisions of the PRT. The Notice was made in terms of Ground 1 of Schedule 3 Part 1 of the 2016 Act, being that “the landlord intends to sell”. The Notice to Leave intimated that an application to the Tribunal would not be made before 20<sup>th</sup> October 2024.

4. Evidence of a section 11 notice in terms of the *Homelessness Etc. (Scotland) Act 2003* served upon Dumfries and Galloway Council on 23<sup>rd</sup> October 2024 was included in the application papers.
5. The application papers included an estate agency mandate between the Applicant and Robert Wilson and Son, Solicitors and Estate Agents, which confirmed that Robert Wilson and Son had been instructed by The Applicant to market and sell the Property.

## **The Hearing**

6. The matter called for a case management discussion (“CMD”) on 28<sup>th</sup> July 2025. The Hearing was held by conference call. The Applicant was represented on the conference call by Mrs Karen Miller from the Applicant’s letting agents, Messrs. GM Thomson and Company. The Respondent also joined the conference call.
7. At the CMD, the Applicant’s representative confirmed that the Applicant continues to seek an order for eviction. The Applicant’s representative explained that the Applicant wishes to sell the Property (and the shop unit below the Property which is also owned by the Applicant). The Applicant does not consider that it is financially viable to continue to own or let the property and wishes to sell it to realise its market value. This is the only rented Property owned by the Applicant and she does not wish to continue to let Property in the Private rented sector
8. The Respondent lives alone in the Property. She is employed as an environmental health officer by the local authority. She has not yet been able to find alternative accommodation. The Respondent confirmed at the CMD that she understood that the Tribunal requires to be satisfied that it is reasonable to grant an order for eviction. The Respondent advised the Tribunal that she did not wish to oppose the granting of an eviction order. The Respondent requested that the Tribunal grant a reasonable period to allow her to source alternative accommodation.
9. Following discussion, parties agreed that the enforcement of the eviction order granted by the Tribunal should not be capable of enforcement prior to 30<sup>th</sup> September 2025, to allow the Respondent time to find alternative accommodation. The Respondent accepted that the eviction order would be enforceable after 30<sup>th</sup> September 2025.

## **Findings in Fact and Law**

10. The Applicant is the owner of the Property,

11. The Applicant let the Property to the Respondent under a Private Residential Tenancy which commenced on 15<sup>th</sup> November 2019
12. Notice to Leave was served upon the Respondent on 23<sup>rd</sup> July 2024. The notice to leave relied upon Ground 1 of Schedule 3 part 1 of the 2016 Act
13. A section 11 notice in the required terms of the *Homelessness Etc. (Scotland) Act 2003* was served upon Dumfries and Galloway Council on the Applicant's behalf on 23<sup>rd</sup> October 2024.
14. The Applicant has instructed Robert Wilson and Son, solicitors, to market and sell the Property.
15. The Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and it is reasonable that an order for eviction is granted.

#### **Reasons for Decision**

16. The application is in terms of rule 109, being an order for eviction of a PRT. We were satisfied on the basis of the application and supporting papers that the Notice to Leave had been competently drafted and served upon the Respondent.
17. Ground 1 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:
  - (1.)...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.
  - (2) 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 Applicant is the owner of the Property and is entitled to sell the Property. The Applicant has engaged agents to sell the Property. The Applicant wishes to sell the Property as she wishes to realise the value of the Property.

19. The Tribunal considered whether it was reasonable to issue an eviction order.

The Tribunal accepts that the Applicant wishes to sell the Property as it is no longer financially viable to let the Property.

The Respondent does not seek to oppose the granting of the eviction order.

In all the circumstances the Tribunal is satisfied that it is reasonable to grant an order for eviction.

20. The Tribunal considers that in the circumstances of the case it would be appropriate to allow the Respondent time to remove from the Property to allow her the opportunity to seek alternative accommodation. Taking account of the views and wishes of the parties on this point, the Tribunal has determined that the order for possession should not be executed prior to 12 noon on 30<sup>th</sup> September 2025.

### **Decision**

23. Taking into account all of the circumstances, the Tribunal grants an order against the Respondent for eviction from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 further to ground 1 of Schedule 3 of that Act.

### **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.**

# Andrew Cowan

28<sup>th</sup> July 2025

Legal Member/Chair

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Date