



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/24/5500

Re: Property at 3 Melrose Avenue, Airdrie, ML6 8TE (“the Property”)

Parties:

Paul Traynor, 1 Royal Crescent, Glasgow, G3 7SL (“the Applicant”)

Mrs Michelle McKechnie, 3 Melrose Avenue, Airdrie, ML6 8TE (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and David Fotheringham (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction relying on ground 1 (landlord intends to sell) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The Tribunal determined that it was reasonable to suspend enforcement of the order until 12 January 2026.

Background

1. By application dated 28 November 2024 the applicant seeks an order for eviction on the ground that he intends to sell the property.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement

- Notice to leave
 - Section 11 notice
 - Correspondence with Keys Estate Agency regarding sale of the property.
3. A case management discussion (“cmd”) was assigned for 6 August 2025

Case management discussion – 6 August 2025 - teleconference

4. The applicant was represented by Mr Nixon, Ritehome Ltd. The respondent appeared on her own behalf.
5. Mr Nixon sought an order for eviction relying on ground 1. He stated that the applicant’s intention remained to sell the property. He stated that the applicant had served a notice to leave and sought vacant possession in order that he could sell the property. Mr Nixon stated that as far as he was aware the applicant was the landlord of one other property.
6. The respondent stated that she did not oppose an order for eviction being granted under ground 1. However, she sought an extended period before the order became enforceable in order that she has time to secure alternative accommodation.
7. Ms McKechnie stated that she resided with her twins aged 16 and her 2 grandchildren aged 9 and 4. She stated that she provides support for her adult daughter who lives close by. Ms McKechnie stated that after she received a notice to leave she had sought advice from the local authority. She had been advised that she should apply as a homeless person after an order was granted. She had been advised that due to the size of the household there may be challenges in obtaining a property within the local area. Ms McKechnie sought an extended period prior to enforcement in order that the local authority has additional time to source suitable accommodation. Ms McKechnie stated that her grandson has a number of additional needs and attends a local nursery. Ms McKechnie advised that her son and granddaughter attended local schools and she wished time to put arrangements in place to minimize disruption for them. She stated that she had tried to find alternative private accommodation however it was not affordable on her current income. Due to the size of the household Ms McKechnie stated that there was a shortage of suitable

affordable housing which meant that she was dependent on the local authority for assistance.

8. Mr Nixon stated that the applicant would agree to an additional period of a month before the order was suspended. He confirmed that the rent account was up to date. He stated that given the length of time that had passed since the notice to leave was served an additional month was a reasonable period of suspension before enforcement.

Findings in fact

9. The respondent and Panacea Ltd entered into a private rented tenancy agreement with a commencement date of 4 February 2019.
10. The applicant is the sole director of Panacea Ltd.
11. The applicant is the sole owner of the property.
12. The applicant intends to sell the property.
13. The respondent has sought advice from the local authority regarding her housing situation.
14. The respondent resides with her 2 children aged 16 and 2 grandchildren aged 9 and 4.
15. The respondent is up to date with her rental payments.
16. The respondent does not oppose an order for eviction being granted.
17. The respondent seeks accommodation close to her current address to minimise the impact of eviction on the household.
18. The respondent's grandson has additional needs and attends a local nursery.
19. The respondent provides support to her adult daughter who resides in the local area.
20. A period of suspension before enforcement of the eviction order will increase the likelihood of the local authority sourcing suitable accommodation within the respondent's preferred areas.

Reasons for the decision

21. Rule 17 (4) states:

The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

22. Rule 18 states:

Power to determine the proceedings without a hearing

18.—(1) *Subject to paragraph (2), the First-tier Tribunal—*

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

23. The Tribunal was satisfied that it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

24. Ground 1 states:

(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,

(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.

25. The Tribunal accepted the evidence that the applicant intended to sell the property. This was not disputed by the respondent.
26. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against
27. The Tribunal gave significant weight to the fact that the respondent did not oppose the order for eviction being granted and made no objection to the reasonableness of the order being granted.
28. In relation to the respondent's request to vary the date of execution to allow a period of approximately 5 months for her to find alternative accommodation the Tribunal determined that this was a reasonable period to defer execution. The Tribunal gave weight to the fact that the respondent had been active in her search for accommodation and was dependent on the local authority for assistance due to her personal and financial circumstances. The Tribunal accepted the respondent's evidence that the local authority would not provide assistance until the point when an eviction order was granted. The Tribunal gave weight to the fact that the respondent was not defending the action and that she lived with 4 children, one of whom had significant additional support needs. Accommodation suitable for the household was not readily available in the local area. The Tribunal also took into account that there had been no issue with the respondent's conduct and that rent payment were up to date. The Tribunal took into account that the notice to leave had been served on 2 September 2024 however there was no evidence that the applicant would be impacted financially by the proposed suspension. The Tribunal determined that in light of the foregoing factors suspension until 12 January 2026 was a reasonable period of time to allow the respondent to make arrangements to remove from 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.

Legal Member/Chair

6 August 2025_____
Date