



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Scotland) Act 2016.**

**Chamber Ref: FTS/HPC/EV/25/0051**

**Re: Property at 3 Birnam Place, Shaw Street, Blairgowrie, PH10 6EB (“the Property”)**

**Parties:**

**Mrs Cornelia Macwilliam and Mr Ruari Macwilliam, West Leiffie Cottage, Alyth, Blairgowrie, PH11 8NZ (“the Applicants”)**

**Miss Pamela McCash, 3 Birnam Place, Shaw Street, Blairgowrie, PH10 6EB (“the Respondent”)**

**Tribunal Members:**

**Shirley Evans (Legal Member) and Helen Barclay (Ordinary Member)**

**Decision (in absence of the Respondent)**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at 3 Birnam Place, Shaw Street, Blairgowrie, PH10 6EB under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicants after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings forth and from the Property and to make the same void and redd that the Applicants or others in their name may enter thereon and peaceably possess and enjoy the same.

**Background**

1. This is an application for an order of repossession of the Property. an order in terms of Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The basis of the

Application was that the Applicants required to repossess the Property to enable their son to live in the property under Ground 5 of Schedule 3 of the 2016 Act.

2. The application was accompanied by a Private Residential Tenancy Agreement dated 16 September 2022 between the parties, a Notice to Leave dated 17 September 2024, an email dated 17 September 2024, a signed affidavit from the Applicants' son dated 31 July 2024, email correspondence between the Applicants' Letting Agent, Robertson Property Management Ltd and the Respondent and a Notice under Section 11 of the Homelessness etc.(Scotland) Act 2003 addressed to Perth and Kinross Council with email dated 29 October 2024.
3. On 7 February 2025, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 26 April 2025 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 28 July 2025. The Respondent required to lodge written submissions by 17 May 2025. This paperwork was served on the Respondent by Roderick Stevenson, Sheriff Officer, Kirkcaldy on 1 May 2025 and the Execution of Service was received by the Tribunal administration.

### **Case Management Discussion**

5. The Tribunal proceeded with the CMD on 28 July 2025 by way of teleconference. Ms Anderson from Robertson Property Management Ltd appeared for the Applicants. There was no appearance by or on behalf of the Respondent despite the CMD starting 10 minutes late to allow her plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in her absence. The case was heard together with a case for arrears under case reference number FTS/HPC/CV/24/5404.
6. The Tribunal had before it the Private Residential Tenancy Agreement dated 16 September 2022 between the parties, the Notice to Leave dated 17 September 2024 with the email dated 17 September 2024, the signed affidavit from the Applicants' son dated 31 July 2024, the email correspondence between the Applicants' Letting Agent, Robertson Property Management Ltd and the Respondent and the Notice under Section 11 of the Homelessness etc.(Scotland) Act 2003 addressed to Perth and Kinross Council with email dated 29 October 2024. The Tribunal noted the terms of these documents.

7. Ms Anderson moved the Tribunal to grant an Order for repossession. She explained that it had always been the Applicants' intention to have their son stay in the Property. He was aged 24 and although they had other rental properties in Dundee, the Property was nearer to them.
8. On being questioned by the Tribunal Ms Anderson confirmed the Respondent had two children. She was aware that one of the children was probably about 15-16 years of age. The Property was a 2.5 bedroomed property. She was aware the Respondent had gone to the Council regarding getting rehoused last year after the Notice to Leave was served. She was aware the Council had told the Respondent not to move out. She had not heard from the Respondent recently. She advised that the Respondent worked as a nurse. She was not aware of any disabilities or vulnerabilities in the family. The Respondent had previously indicated in an email she would not oppose the order for eviction.

### **Reasons for Decision**

9. The Tribunal considered the issues set out in the application together with the documents lodged in support.
10. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 5, namely that a family member intends to live in the Property. This is a discretionary ground of eviction. As well as being satisfied the facts have been established to support the ground, the Tribunal has to be satisfied that it is reasonable to evict.
11. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave setting out an eviction ground applied for stated in the Notice to Leave accompanying the application.
12. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states it is the Applicants' intention to allow their son to move into the Property at Part 2 of the Notice in terms of Ground 5 of Schedule 3. The Notice to Leave specifies the date the landlord expects to become entitled to make an application for an eviction order and specifies a date in terms of Section 54(2).
13. In terms of Section 62(4) of the 2016 Act, the Notice to Leave must specify the day falling after the day on which the notice period defined in section 54(2) will expire. In this case the Respondent stated the Notice to Leave was served on the Respondent by email on 17 September 2024. The Tribunal is

accordingly satisfied the Notice to Leave was validly served on 17 September 2024.

14. In terms of Section 54 the notice period of the Notice to Leave is 84 days. The Notice to Leave stated the earliest date the Applicants could apply to the Tribunal was 13 December 2024. In the circumstances the Tribunal is satisfied the Respondent has been given sufficient notice of 84 days. Accordingly, the Notice to Leave complies with Section 62.
15. The Tribunal is also satisfied the Notice to Leave complies with Section 52(5) of the 2016 Act and that the application proceeds on the eviction ground stated in the Notice to Leave, namely Ground 5.
16. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Ms Anderson. The Tribunal was satisfied on the basis of the documents lodged, together with submissions made by parties, that the factual basis of the application had been established and was satisfied the Applicants intended to allow their son to move into the Property as soon as they regained possession.
17. In determining whether it is reasonable to grant the order, the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal is satisfied that the Applicants' intention was to allow their son to move into the Property when they obtained possession. The Respondent had indicated she would not oppose the Application and had not engaged in the Tribunal process. She had had sensibly taken advice from the local Council. The balance of reasonableness in this case weighted towards the Applicants. The Tribunal find it would be reasonable to grant the order.
18. In the circumstances the Tribunal consider that in terms of Ground 5 of Schedule 3 it is reasonable to grant an eviction order in terms of Section 51 of the 2016 Act.

## **Decision**

19. The Tribunal granted an order for repossession. The decision of the Tribunal was unanimous.

## **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.

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**Shirley Evans**

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**Legal Member**

**28 July 2025**

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**Date**