



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("The Act")

Chamber Ref: FTS/HPC/EV/24/5305

Re: Property at 10 Montgomerie Crescent, Saltcoats, KA21 5BX ("the Property")

Parties:

Mr Danny Horvat, Morag Phillips, 9g, 5-15 William Street, St Botany, Sydney, 2019, Australia; 9G 5 15 William Street, Botany 2019, Sydney, Australia ("the Applicant")

Miss Linda Johnstone, 10 Montgomerie Crescent, Saltcoats, KA21 5BX ("the Respondent")

Tribunal Members:

Andrew McLaughlin (Legal Member) and Mary Lyden (Ordinary Member)

Decision

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") granted the Application and made an Eviction Order on the provision that the order may not be enforced until 30 September 2025.

Background

[2] The Applicants seek an Eviction Order under ground 1 of Schedule 3 of the Act. The Application is accompanied by a copy of the tenancy agreement and the notice to leave with proof of service. The relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 is also produced.

The Case Management Discussion

[3] The Application called for a Case Management Discussion (CMD) by conference call at 2 pm on 30 July 2025. The Applicants were represented by their letting agent, Mr Scott Crainie. The Respondent was also personally present together with her representative, Ms Gibson from CHAPS. Neither party had any preliminary matters to raise. The Tribunal discussed the Application with the Respondent. She confirmed that she wished to leave the Property but wanted more time to organise her departure. Ms Gibson had submitted representations in advance of the CMD to this effect. The Respondent had health issues and explained that she was disabled. She acknowledged that since her mother had passed away in June 2024, significant rent arrears had accrued in the sum of £5,600.00. The Respondent explained that she had only been paying what used to be her own half share of the rent before her mother died. The Applicants for their part were anxious to sell the Property as soon as possible and the Tribunal discussed that fully.

[4] Having heard from parties and having considered the documentation before it, the Tribunal made the following findings in fact.

Findings in Fact

1. *The Applicants let the property to the Respondent and her late mother by virtue of a Private Residential Tenancy Agreement within the meaning of the Act;*
2. *The Applicants now wish to sell the Property to alleviate financial hardship caused by a chronic non-payment of rent by the Respondent.*
3. *The Applicants have competently served a notice to leave under ground 1 on the Respondent;*
4. *The Applicants have complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003;*
5. *The Respondent wishes to leave the Property but would like an extra two months to organise her departure. The Applicants wish to end the tenancy as soon as possible*

Reasons for Decision

[5] Having made the above findings in fact, the Tribunal considered that ground 1 of Schedule 3 of the Act was established and that it was reasonable to make an Eviction Order. The Tribunal granted the Application but considered that it was reasonable to do so on the provision that the order may not be enforced until 30 September 2025. Allowing an extra month seemed a fair compromise of balancing the Applicants'

legitimate desires to end the tenancy and sell the Property and the Respondent's desire to avoid the requirement for temporary accommodation given her disability.

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

30 July 2025.

Date