



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/24/5495

Re: Property at 6 Park Lane, Kilwinning, North Ayrshire, KA13 7HP (“the Property”)

Parties:

Mrs Anne McGuire, 7 South Hamilton Place, Kilmarnock, KA1 2DU (“the Applicant”)

Mr Gary Wood, 6 Park Lane, Kilwinning, North Ayrshire, KA13 7HP (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.

Background

1. By application dated 26 November 2024, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 1 of Schedule 3 to the 2016 Act, namely that the landlord intends to sell the Property.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, which commenced on 18 May 2022 at a rent of £640 per month, a Notice to Leave dated 25 March 2024 advising the Respondent that an application to the Tribunal under Ground 1 would not be made before 21 June 2024, and a Market Appraisal with fee quote from Lomond Property dated 26 November 2024. The Notice to Leave referred to an email sent by the Applicant, but that email could not be found by the Applicant’s

solicitors, who had not been involved in serving the Notice to Leave, and was not provided to the Tribunal.

3. On 12 April 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 3 May 2025. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 23 July 2025. The Applicant was represented by Miss Millie Archibald of Wallace Hodge & Co, solicitors, Ayr. The Respondent was also present.
5. Miss Archibald told the Tribunal that the Property is a 4-bedroom semi-detached house. The Applicant has recently retired from the Civil Service. She has no other rental properties and is not a professional landlord. She inherited the Property from her mother, and it was always her intention to sell it to help fund her retirement. She understands that the Respondent is currently waiting to be rehoused. He has been a good tenant, and the Applicant would be happy for an Eviction Order to be suspended until the end of March 2026, to give the Council enough time to be able to offer him alternative accommodation.
6. Mr Wood told the Tribunal that he is self-employed. He lives in the Property with his daughter, who has just left primary school. His 8-year-old son stays with him when he is at school and his 15-year-old son also occasionally stays with him. He has been in touch with the local authority and has been moved up the housing waiting list, but he does not want to go down the homelessness route and end up in temporary accommodation. An Eviction Order would push him further up the line. He understands that the Applicant wishes to sell the Property and extending the earliest date on which an Eviction Order could be enforced would give more time for him to be rehoused and would help him avoid a situation where he and his family were homeless. He appreciated the Applicant's offer to postpone the Order until the end of March 2026. He would prefer to live in Kilwinning for the sake of his children's schooling but had indicated to the Council that he would accept a house in a wider geographical area to include Irvine and Saltcoats.

Reasons for Decision

7. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
8. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by

the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies.

9. Ground 1 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the landlord intends to sell the let property and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell and 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 the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts.
10. The Tribunal was satisfied from the information provided at the Case Management Discussion and the Market Appraisal that the Applicant intends to sell the Property. Accordingly, the only matter for the Tribunal to decide was whether it would be reasonable to issue an Eviction Order.
11. The Tribunal noted that the Applicant has always planned to sell the Property to help fund her retirement and that she has in fact now retired. She does not own any other rental properties. The Respondent has taken steps to seek to be rehoused in the social housing sector and thinks that an Eviction Order would help to push him and his family further up the Council's waiting list. Having considered carefully all the evidence before it and having regard to the interests of both Parties, the Tribunal decided that it would be reasonable to issue an Eviction Order, but to provide that it would not be enforceable until 31 March 2026. The Respondent was reminded that he could give notice at any time before then if he had found alternative and suitable accommodation.
12. The Tribunal's decision 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.

George Clark

Legal Member/Chair

23 July 2025
Date