

Housing and Property Chamber
First-tier Tribunal for Scotland



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/24/5821

Property : 5A Balmedie Drive, Dundee DD4 8PG ("Property")

Parties:

Brenda Downie trading as Rowan Properties, Rowan Cottage, Shielhill Road, Kirriemuir Road, Kirriemuir DD8 4PA ("Applicant")

Alison Bruce Property Management Ltd, 77 Macalpine Road, Dundee DD3 8RE ("Applicant's Representative")

Nadia Watson, 5A Balmedie Drive, Dundee DD4 8PG ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Gordon Laurie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined to make an order for possession of the Property and to delay enforcement until 3 October 2025.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement which commenced on 1 March 2022; Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 4 April 2024 ("Notice to Leave") with covering email dated 4 April 2024; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email and confirmation in respect of the estate of Stewart Downie dated 16 November 2023 which notes that the Applicant is the executrix on the estate of the late Stewart Downie. A Case Management Discussion ("CMD") was fixed for 6 August 2025. The Application was served on the Respondent by sheriff officer on 23 June 2025.

Case Management Discussion (“CMD”)

A CMD took place before the Tribunal on 6 August 2025 by teleconference. The Applicant was represented by Alison Bruce of the Applicant’s Representative. The Respondent was in attendance.

Ms Watson told the Tribunal that she lives in the house with her 6 year old son and 10 month old baby. She said that her son is being tested for autism. She said that she is currently on maternity leave and due to return to work at the end of August. She said that she has been on the council house waiting list for 8 years. She said that her housing officer had told her that nothing further could be done regarding alternative accommodation until they knew the outcome of the Tribunal process. She said that she wished to leave the Property as it no longer meets her needs.

Mrs Bruce told the Tribunal that Mrs Downie wished to sell following the death of her husband. She said that Mr and Mrs Downie had owned 12 properties and all but 2 had now been sold. She said that following the tragic circumstances of Mr Downie’s death, Mrs Downie was no longer able to manage rental properties. She said that Mrs Downie had tried to sell the portfolio with tenants in place without success. She said that she had been in touch with Dundee City Council and they seemed to be offering properties to tenants who were going through the Tribunal process. She said that the mortgage over the Property expires early 2026 and Mrs Downie is not able to remortgage due to her age.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant entered into a Tenancy Agreement with the Respondent for the Property which commenced on 1 March 2022.
2. A Notice to Leave was served on the Respondent by email on 4 April 2024. It stated that an application for an eviction order would not be submitted to the Tribunal before 30 June 2024.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
4. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

Reasons for the Decision

In terms of section 51 of the Act, 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 applies. In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell the Property. The evidence lodged with the application of intention to sell was a written submission from the Applicant's Representative.

The Tribunal considered the question of reasonableness. In all the circumstances, and in the absence of opposition from the Respondent, the Tribunal determined that it was reasonable to grant an order for possession of the Property. The Tribunal considered that a delay in enforcement of the order until 3 October 2025 would allow the local authority additional time to identify alternative accommodation for the Respondent and her young family.

Decision

The Tribunal determined to grant an order for possession of the Property and to delay enforcement until 3 October 2025.

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.

J.Devine

Legal Member

Date : 6 August 2025