

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 and Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules)

Ref: FTS/HPC/EV/25/1101

Re: Property at Flat 7, Bishop's Hill Road, Tornagrain, Inverness, IV2 8AR (the Property)

Parties:

Ms Siu Ping Choi, Flat F, 6/F, Block 8, Yoho Town, Yuen Long, NT, Hong Kong (the Applicant)

Harper Macleod, Solicitors, Alder House, Cradlehall Business Par, Inverness, IV2 5GH (the Applicants' Representative)

Ms Heather Eleanor Grant and Mr Michael David Grant, Flat 7, Bishop's Hill Road, Tornagrain, Inverness, IV2 8AR (the Respondents)

Tribunal Members:

Ms Susanne L. M. Tanner K.C. (Legal Member)

Mr Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal):

- (i) was satisfied that Ground 1 in Schedule 3, Part 1 to the 2016 Act was established by the Applicant, in that on the day the tribunal considered the application for an eviction on its merits: the Applicant as registered proprietor intends to sell the let Property for market value, or at least put it up for sale within three months of the Respondents ceasing to occupy it;**
- (ii) was satisfied that it was reasonable to make an eviction order in the circumstances; and**
- (iii) made an order for eviction in terms of Section 51 of the 2016 Act but deferred the date for enforcement of the order to 1 October 2025.**

The decision of the tribunal was unanimous.

Statement of Reasons

Procedural Background

1. The Applicant's Representative made an application to the tribunal on 12 March 2025 in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules). The Applicant seeks the Respondents' eviction from the Property under Ground 1 of Schedule 3.
2. The Applicant's Representative provided the following documents with the Application:
 - 2.1. Paper apart;
 - 2.2. Private Residential Tenancy Agreement;
 - 2.3. Copy Notices to Leave and proof of delivery by email;
 - 2.4. Copy email from Applicant's agent to the Respondents dated 20 June 2024;
 - 2.5. Copy evidence of delivery by recorded delivery to both Respondents
 - 2.6. Copy letter from Your Move (Inverness) confirming their instructions to sell the Property;
 - 2.7. Statement of Account;
 - 2.8. Copy Section 11 Notices in respect of both Respondents; and
 - 2.9. Copy emails to Highland Council sending Section 11 notices.
3. On 13 March 2025, the tribunal's administration obtained a copy of the Title Sheet for the Property which shows that the Applicant has been the registered proprietor since 9 May 2023.
4. The tribunal's administration searched Landlord Registration Scotland which shows that the Applicant is the registered landlord of the Property.
5. The Application was accepted for determination. The tribunal sent letters of notification dated 30 June 2025 to both parties with the date, time and arrangements for joining the Case Management Discussion (CMD) teleconference in relation to the Application on 13 August 2025 at 1400h. The Application paperwork was personally served on the Respondents by Sheriff Officers on 2 July 2025. The Respondents were told that if they wished to submit written representations these should be sent to the tribunal by 21 July 2025.
6. The Respondents did not submit any written representations.

CMD: 13 August 2025, 1400h, Teleconference

7. Mrs de Carlo, Solicitor, from the Applicants' Representative attended.
8. The First Respondent, Mrs Grant, attended the CMD on her own behalf and as Representative of the Second Respondent, Mr Grant.

Respondent's Submissions

9. Mrs Grant stated that she and her husband (the Second Respondent) did not put in a defence because they do not have a defence. However, they are seeking sufficient time to find a property and move out. She stated that they know they have to move out. They just cannot find anywhere to stay. They feel really bad because they know that the Applicant wants to sell the Property.
10. Their original plan was to move out in summer 2024. Unfortunately her husband took a stroke in June 2024. At that time they had a plot of land which they were planning to build a house on. The self build is off the table now. They just cannot do that. Mr Grant's medical condition changed everything in their life plans. Mrs Grant also stated that her husband's health got worse this year. He had gallstones. He had to have his gall bladder removed 8 weeks ago. He is currently recuperating at home. She stated that the Property they are in is not really suitable for them as it is up three flights of stairs. He is 71. Mr Grant was a heavy goods driver and had to give up work after his stroke in June 2024.
11. Mrs Grant stated that she was advised by a friend to apply to Highland Housing Alliance (HHA) for a mid market rent. Mr and Mrs Grant were advised by HHA that that a mid rent new build property in Balloch would be available in November or December 2024. There were delays with the build. Mrs Grant advised the Applicant that was happening and that there were ongoing delays. As far as Mrs Grant is aware there are still empty houses on that site. In anticipation of moving Mr and Mrs Grant packed and had everything booked for a removal. Mrs Grant stated that four weeks ago she was told that something to do with the application was wrong. They were not allocated one of the first properties that were set up. She has remained in contact with HHA. HHA sent a notification that there is a bungalow available in Balloch. They have applied for that. They have sent another one and they have applied for that. Her expectation is that there will be an update in the next 28 days. HHA are aware of these proceedings. So are Highland Council , Highland Residential and also Touchstone, which is building houses near Culloden. They are all aware of the eviction notice.
12. Mrs Grant stated that they have also done 17 private housing applications.
13. Mrs Grant stated that she would like to request some additional time beyond the usual period of 30 days for enforcement. She stated that the Council have said that

they will have to put them in homeless accommodation. She asked the tribunal to consider giving them to 1 October 2025 to be out. She stated that until she finds out the results from HHA she does not know if they will be offered a property in the timescale. She said that if there is a house available they will move without delay. A lot of their belongings are packed and they have prepared so that things are removed from the Property. HHA have not said that they will definitely allocate a house. She has been told that it is all to do with points. They did not have a lot of points but the eviction notice increases the points. She stated that there are not enough houses for the number of people applying.

14. The Council have said to Mrs Grant that if they are not allocated a property prior to eviction they would provide temporary homeless accommodation.
15. In relation to the rent schedule which shows rent arrears as at February 2025, the Respondent said that there are only rent arrears of £500.00 as at today's date. She said that they are paying fortnightly in advance and two weeks afterwards. They pay by direct transfer. She stated that she will need to look at her own accounts before confirming whether the arrears are a higher amount.

Submissions by Applicants' Representative

16. Mrs de Carlo was not aware of any of the Respondents' factual background and she said that she appreciates that it must be a difficult time for the Respondents.
17. There was an adjournment during the hearing so she could obtain instructions from her client about various matters, including the Respondents' request for a deferral of the earliest date of enforcement of the order.
18. Mrs de Carlo obtained instructions and advised the tribunal that the Applicant has no difficulties with the date for enforcement of the order being delayed until 1 October 2025. Mrs de Carlo stated the Applicant has actually refrained from raising proceedings on the back of discussions with the Respondents. The proceedings were raised on almost the last day to do so. The Applicant has tried to accommodate the Respondents as far as possible. A further two weeks is not a point of contention.
19. Mrs de Carlo stated that the Respondent has three other properties in addition to the Property. Two are holiday lets. Another is subject to a private tenancy. The other private tenancy concerns a family with a baby. The holiday lets generally generate significantly more income that allows her to support her life in China. She previously worked as a teacher which was well paid in China. Her husband is Scottish and she moved to Scotland. She used her money to purchase the properties in Scotland. The client uses this as a source of income. The Applicant

lives in Hong Kong and no longer works. She is going to sell all of the UK assets, perhaps retaining one for her daughter in case she wants to come back at a later stage in her life. This Property was the one that was chosen to be the first to be sold.

20. Mrs de Carlo stated that especially at the early stages, rent is persistently delayed. The Applicant has told her that with the exception of one payment of a months' rent on 31 July 2025 there have been no further payments since the rent schedule was produced in February 2025. There is no agreement to incremental or fortnightly payments. She has persistently had to chase tenants for rental payments to be made and that there is often lack of communication. This became the first choice of properties to sell. She will be selling all other properties in the future as well. The rent arrears from the calculation as at today's are £5,250.00. One months' rent was paid on 31 July 2025. The Applicant is considering making a civil application for rent arrears and reserves her position on this.

21. The tribunal makes the following findings-in-fact:

21.1. The Applicant is the registered proprietors of the Property.

21.2. The Applicants wish to sell the Property with vacant possession and realise the proceeds to fund her life in Hong Kong.

21.3. There is a private residential tenancy agreement between the Applicant and the Respondents for the Property which began on 24 May 2023.

21.4. On 21 June 2024, Notices to Leave containing ground 1 of Schedule 3 to the 2016 Act was served on the Respondents.

21.5. The Applicant has given the Respondents at least 84 days' notice that they require possession.

21.6. The Application to the tribunal was made on 12 March 2025.

21.7. The Applicant intends to sell the Property on the open market or at least market it for sale within three months of vacant possession.

21.8. The Applicant has instructed a sales agent in respect of sale of the Property with vacant possession once obtained.

21.9. The Property is a third floor flat.

21.10. The Second Respondent has health difficulties which make the Property unsuitable for him to continue living in.

21.11. A ground floor property would be more suitable for the Second Respondent because of his medical conditions.

21.12. The Respondents are actively seeking another Property either from a housing association with a mid market rent or a private rented property.

21.13. The Respondents have made an application to the local authority for temporary homeless accommodation in the event of an eviction order being enforced before they have found a suitable property.

21.14. There are no children under 16 residing in the Property.

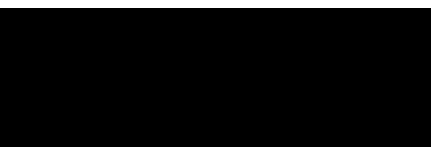
Discussion

22. The order for eviction is sought in terms of Section 51 and paragraph 1 of Schedule 3 to the 2016 Act. The parties agreed that the eviction order should be made with a deferral of the earliest date for enforcement to 1 October 2025. The tribunal was satisfied that the requirements of those provisions have been met. The tribunal is satisfied that the Applicant intends to sell the Property or at least put it up for sale within three months of an eviction order being made.

23. In relation to reasonableness, reference is made to the tribunal's findings in fact. The tribunal was satisfied that it was reasonable to evict the Respondent in the circumstances of the case, with deferral of the earliest date of enforcement of the order to 1 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.



Ms. Susanne L. M. Tanner K.C.
Legal Member/Chair

13 August 2025