

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

**Chamber Ref: FTS/HPC/EV/24/4668**

**Property at 24 Lothian Street, Bo'ness, EH51 9BP (“the Property”)**

**Parties:**

**Mr Kenneth Mallen, Mrs Christine Mallen, 10 Pearce Road, Edinburgh, EH12 8ST  
 (“the Applicants”)**

**Miss Dionne O'Donnell, 24 Lothian Street, Bo'ness, EH51 9BP (“the  
Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that an eviction order should be granted against the  
Respondent in favour of the Applicants.**

**Background**

- 1.** The Applicants seek an eviction order in terms of Section 51 and Ground 1 of Schedule 3 of the 2016 Act. A copy of the application was served on the Respondent, and the parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 19 June 2025 at 10am. Prior to the CMD, the Applicants advised the Tribunal that they would be dialling in from abroad and were provided with the relevant dial in details.
- 2.** The CMD took place on 19 June 2025. The Respondent participated. The Applicants did not join the call.
- 3.** After the start of the CMD, it was established that the Applicants were having technical difficulties. They contacted the caseworker who tried to assist. The Tribunal clerk also tried to contact them to assist them to join the conference call but was unsuccessful. At 10.25am, the Tribunal determined that the CMD

should be adjourned to another date as it was evident that the Applicants wanted to participate but were unable to do so.

4. The parties were notified that a CMD would take place by telephone conference call on 20 August 2025 at 2pm. The CMD took place on that date. All three parties participated.

## **Summary of Discussion**

5. The Tribunal noted that the Notice to leave had been served in relation to ground 1A, a temporary ground which had been repealed before the Notice was issued. The Tribunal determined that ground 1 could be included in terms of Section 52(5)(b) which states that eviction grounds not specified in the Notice to leave may be included with the permission of the Tribunal.
6. Ms O'Donnell told the Tribunal that the application is not opposed. She cannot afford to rent another property in the private sector and has approached East Lothian Council for assistance. She wants to move back to East Lothian as all her family are there. However, the Council will not be in a position to re-house her until an eviction order is granted. In the meantime, she is also bidding each week for housing association properties. In response to questions from the Tribunal, Ms O'Donnell said that she lives at the property alone. She has no significant health issues although the eviction process has caused stress. She has already been assessed by the Local Authority and is in contact with a housing officer. She is aware that she might have to reside in temporary accommodation for a period of time.
7. Mr and Mrs Mallen told the Tribunal that they have already sold their only other rental property and will sell the property as soon as its unoccupied. They are retiring and want to move out of the rental market. The property was purchased to help fund their retirement and they need to sell it and realise the proceeds.

## **Findings in Fact**

8. The Applicants are the owners and landlords of the property.
9. The Respondent is the tenant of the property.
10. The Applicants intend to sell the property for financial reasons. They have already sold their other rental property and want to sell the property to help fund their retirement.
11. The Applicant served a Notice to leave on the Respondent on 6 July 2024.
12. The Respondent lives at the property alone and has no major health issues.

13. The Respondent does not oppose the application. She has been in contact with a Local Authority for assistance and wants to move to East Lothian to be closer to her family.

### **Reasons for Decision**

14. The application was submitted with a Notice to Leave dated 6 July 2024 together with a copy of an email to the Respondent which establishes that it was sent on that date. The Notice states that an application to the Tribunal is to be made on ground 1A, the landlord intends to sell the let property to alleviate financial hardship. The application was initially also based on ground 1A and then amended to ground 1 when the Applicants were notified that ground 1A had been repealed. The Tribunal is satisfied that ground 1 can be included in terms of Section 52(5)(b) of the 2016 Act.
15. The Notice states that the earliest date that an application can be made to the Tribunal is 7 October 2025. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice which was sent to the Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
16. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
17. Ground 1 of schedule 3 (as amended) states, "(1) It is an eviction ground that the landlord intends to sell the let property. (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord – (a) is entitled to sell the let property, (b) 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 (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts."
18. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Applicants intend to sell the property and that part 1 of ground 1 is established.
19. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -
- (a) The Respondent does not oppose the application. She wants to be re-housed in the social rented sector in East Lothian to be closer to her family. She has approached both the Local Authority and housing associations and is in regular contact with a housing officer.

(b) The Applicants require to sell the property for financial reasons. The mortgage payments have substantially increased, and they require the sale proceeds to fund their retirement as they are both over 70 years of age.

20. The Tribunal concludes that the Applicants have complied with the requirements of the 2016 Act and that ground 1 has been established. For the reasons outlined in paragraph 19 the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

## **Decision**

21. The Tribunal determines that an eviction order should be granted against the Respondent.

## **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.

Josephine Bonnar

Josephine Bonnar, Legal Member

Date: 20 August 2025