



**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/24/4297

Re: Property at 29/4 Merchiston Gardens, Edinburgh, EH10 5DD (“the Property”)

Parties:

**Mrs Jane Frith, Woodhurst, Old Belfield, Bowness of Windermere, Cumbria,
LA23 3HT (“the Applicant”)**

**Mrs Martina King (Formerly Known as Jane Cochrane), 29/4 Merchiston
Gardens, Edinburgh, EH10 5DD (“the Respondent”)**

Tribunal Members:

Alison Kelly (Legal Member) and Ann Moore (Ordinary Member)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the order for eviction should be granted.**

Background

1. On 12th September 2024 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - i. Copy Private Residential Tenancy Agreement showing a commencement date of 1st October 2018 and a rent of £1195 per month;
 - ii. Copy Notice to Leave dated 14th May 2024;
 - iii. Copy email dated 14th May 2024 to the Respondent serving the Notice to Leave;
 - iv. Section 11 Notice and proof of service;
 - v. Terms of Business letter from Lindsays, Solicitors, dated 24th October 2024 in relation to sale of the property.

3. The Application was served on the Respondent by Sheriff Officers on 25th July 2025.
4. On 19th August 2025 Sophie Bennett of CHAI sent an email to the Tribunal confirming that she was representing the Respondent and asking for a copy of the papers.
5. On 28th August 2025 Miss Bennett sent a Written Submission to the Tribunal confirming that the Respondent did not oppose the order being granted but was seeking that it be suspended for a period.

Case Management Discussion

6. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Mr Kerr of IME DJK Ltd. The Respondent was represented by Miss Bennett of CHAI.
7. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules.
8. Mr Kerr sought an order for eviction in terms of ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. He confirmed that the Applicant intended to sell the property, or at least put it up for sale, within three months of the Respondent vacating it. He said that current rent arrears are £7533.93.
9. Miss Bennett confirmed that in terms of her Written Submission the Respondent was not opposing an order being granted, she was merely looking for its execution to be suspended for a period to allow her to find suitable alternative accommodation. She said that the Respondent accepted the level of rent arrears. She had spoken to the local authority and had received advice from them about re-housing. She was adamant that she wants to remain renting in the private sector and does not wish to live in local authority accommodation. She has a guarantor in place for any future private let.

Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property;
- b. The tenancy commenced on 1st October 2018;
- c. A Notice To Leave, dated 14th May 2024, was served on the Respondent;
- d. A section 11 notice was served on the local authority;
- e. The Application was served on the Respondent by Sheriff Officer on 25th July 2025;
- f. The applicant has title to sell the property;

- g. The Applicant intends to sell or market for sale the property within three months of the Respondent vacating;
- h. The current rent arrears are £7533.93;
- i. The Respondent lives in the property with her three children;
- j. The Respondent has a number of health conditions;
- k. The Respondent is in receipt of state benefits.

Reasons for Decision

10. Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 is as follows:

(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.

(3)Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a)a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

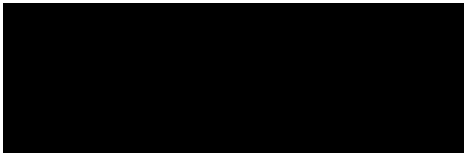
(b)a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

11. The Tribunal are satisfied that the ground of eviction has been met. The Tribunal is also satisfied that it is reasonable to grant the Order, taking in to account the fact that it is not opposed, and the level of rent arrears.

12. The Tribunal is prepared to suspend the period of extract of the Order for two weeks. The tribunal considers that this will give the Respondent time to contact the local authority and advise them that an Order for eviction has been granted. The Tribunal is not persuaded to suspend the extract for a longer period as it is nearly eighteen months since the Notice To Leave was served, there is a high level of rent arrears which constitutes a potential loss for the Applicant, and the Respondent is not prepared to consider local authority housing.

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

Date: 04/09/2025