



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/24/5753

Re: Property at 51 Springfield Road, Elgin, IV30 6BZ (“the Property”)

Parties:

Mr Alexander Stuart Kennedy, Mrs Alison Elspeth Mary Kennedy, 40 Springfield Road, Elgin, IV30 6BZ (“the Applicants”)

Mr Steven John Taylor, Mrs Michelle Jacqueline Taylor, 51 Springfield Road, Elgin, IV30 6BZ (“the Respondents”)

Tribunal Members:

Alastair Houston (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order in terms of paragraph 1 of schedule 3 of the 2016 Act be made in favour of the Applicants.

1. Background

1.1 This is an application for an eviction order made on the basis that the Applicants wish to sell the Property. The application was accompanied by, amongst other things, copies of the notice to leave given to the Respondents, the written tenancy agreement between the parties and a home report obtained by the Applicants.

1.2 No written representations or other documents had been received from the Respondents in advance of the Case Management Discussion.

2. The Case Management Discussion

- 2.1 The Case Management Discussion took place on 25 August 2025 by teleconference. The Applicants were represented by Mr Maltman, solicitor. The Respondents were neither present nor were they represented.
- 2.2 The Applicants' representatives confirmed that the application was insisted upon. He wished to proceed in the Respondent's absence. Given that intimation of the application and the Case Management Discussion had been given to the Respondents by sheriff officers, the Tribunal considered it appropriate to proceed in their absence as permitted by rule 29 of the Chamber Rules.
- 2.3 The Applicants' representative confirmed they wished to sell the property. This was due to their age, as both were in the seventies, and financial circumstances. Furthermore, the Respondents had not been paying rent since the process began. To his knowledge, the Respondents wished the order to be granted to enable them to obtain social housing. The property was no longer suitable for their needs as they had had a child last year. This was the Applicants' only rental property. No finance remained outstanding in respect of it.
- 2.4 The Tribunal indicated that it was prepared to grant the application for an eviction order in the circumstances.

3. Reasons For Decision

- 3.1 The Tribunal did not consider that a hearing was required and proceeded to determine the application as permitted by Rule 18 of the Chamber rules. The Applicants had served the requisite notice to leave upon the Respondents. A home report had been obtained in respect of the property supporting the Applicants' intention to sell. The ground contained in paragraph 1 of schedule 3 of the 2016 Act therefore applied. Accordingly, the Tribunal required to consider whether it was reasonable to grant an order for recovery of possession.
- 3.2 The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah* 1947 SC 245 whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the application was made. The Applicants owned one rental property. They had chosen to sell given their age and financial circumstances. The latter would not be improved by the Respondents not paying rent. Furthermore, the Respondents had indicated to the Applicants' representatives that they wished the order to be granted to better enable them to obtain social housing. In the absence of any representations by the Respondents as to why it would not be so reasonable, the Tribunal considered that it was reasonable to grant the eviction order.

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: Mr Houston

Date: 25 August 2025