

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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**

**Chamber Ref: FTS/HPC/EV/24/3679**

**Re: Property at 16 Beaulieu Place, Coatbridge, ML5 4ND (“the Property”)**

**Parties:**

**Mr Jim Lambert, 33 Killoch Street, East Kilbride, G74 4JW (“the Applicant”)**

**Miss Paula Henderson, Mr Martin Reilly, 16 Beaulieu Place, Coatbridge, ML5 4ND  
 (“the Respondent”)**

**Tribunal Members:**

**Valerie Bremner (Legal Member) and Ahsan Khan (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 be granted in respect of the property in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Applicant is entitled to sell the let property, intends to sell it for market value or at least put it up for sale within 3 months of the Respondents ceasing to occupy it and the Tribunal is satisfied it is reasonable on account of these facts to issue an eviction order.**

**Background**

1. This application for an eviction order under Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure was first lodged with the Tribunal on 14<sup>th</sup> August 2024 and was accepted by the Tribunal on 20<sup>th</sup> January 2025. A case management discussion was fixed for 24<sup>th</sup> July 2025 at 2pm.

**Case Management Discussion**

2. The Applicant attended the case management discussion, and the Second Respondent Mr Reilly attended to represent both Respondents.

3. The Tribunal had sight of the Application, a private residential tenancy agreement, a Notice to Leave with proof of service of this document on the Respondents by recorded delivery post, a notice in terms of section 11 of the Homelessness etc. Scotland Act 2003 with proof of delivery to the local authority, an inspection report for the property and an email from solicitors dated 11 September 2024 confirming instructions to sell the property.

4. The Applicant advised the Tribunal that he wanted to sell his remaining five rental properties including the property referred to in this application. He was having financial difficulties due to increased mortgage rates and said that he required to sell all of the properties or none at all or they would be repossessed. He indicated that he had not received rent for the property for around 18 months and he understood he was owed about £10,000 in unpaid rent. This position was not financially tenable for him. The Applicant Mr Lambert indicated that he had submitted a separate application to the Tribunal for a payment order in relation to the unpaid rent but the Tribunal explained that it was dealing only with the eviction application at the case management discussion.

5. For the Respondents, Mr Reilly advised that they were not opposing the eviction application. He explained that some time ago, they had received notification from the landlord's mortgage company that the mortgage was in arrears. They decided to stop paying rent at that point, as they no longer felt the tenancy was secure. He could not confirm the exact amount of the arrears, but accepted that they had not paid rent for several months and considered that the arrears might be around £6000 - £7000. Mr Reilly said that he worked as a teacher, and his partner was employed as a part-time cleaner. They have three children, aged 8, 6 and 4, living with them in the property. They have no particular needs, and the property has not been specially adapted, although it is conveniently located for the children's school and nursery. Mr Reilly stated that he had contacted the local authority and was seeking social rented housing. He confirmed they were not seeking additional time before enforcement of any eviction order granted, as they would stay with their parents until suitable accommodation could be found through the local authority or a housing association. Mr Reilly confirmed that the Respondents were not seeking to suggest that it would be unreasonable for the Tribunal to grant an eviction order.

6. The question of whether the property could be sold with sitting tenants was discussed but Mr Lambert indicated that he could not sell the property with sitting tenants in place who were in rent arrears. This was not disputed by Mr Reilly.

7. The Tribunal had sight of a Notice to Leave dated 9<sup>th</sup> May 2024 served by recorded delivery post on the Respondents on 11<sup>th</sup> May 2024.

8. The Tribunal also had sight of a Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 sent by email to North Lanarkshire Council on 10<sup>th</sup> September 2024.

9. The Tribunal had sight of an email and letter from Hutchesons solicitors dated 11<sup>th</sup> September 2024 confirming that the Applicant had instructed them to sell the property after a possession order for the property was granted.

10. The Tribunal had sight of an email from these solicitors sent to Letting Agents acting for the Applicant confirming that the property was jointly owned by the Applicant and his late wife and his interest in the property was as joint owner and executor of her estate.

11. The Tribunal was satisfied that it had sufficient information upon which to make a decision and that the proceedings had been fair.

### **Findings in Fact**

12. The Applicant is the joint owner of the property along with his late wife.

13. The Applicant is the executor of his late wife's estate.

14. The Applicant's interest in the property is as joint owner and executor.

15. On 27 September 2018, the Applicant and the Respondents entered into a private residential tenancy at the property.

16. On 9 May 2024, the Applicant sent the Respondents by recorded delivery post a Notice to Leave in proper form indicating that the Landlord intended to sell the let property. The Notice to Leave stated that an application would not be made to the Tribunal any earlier than 6 August 2024.

17. The Applicant is entitled to sell the let property and intends to sell the property or at least put it up for sale within three months of the Respondents ceasing to occupy it.

18. The Applicant has instructed Hutchesons Solicitors to market and sell the property once vacant possession has been obtained.

19. The Applicant is in the process of selling the majority of his rental properties. Due to an increase in mortgage rates, the properties are no longer financially viable.

20. The Applicant has a mortgage over the property. The mortgage payments exceed the contractual rent.

21. The Respondents stopped paying rent when they became aware of correspondence between the mortgage lender and the landlord indicating that the mortgage was in arrears.

22. The fact that the rent is in arrears is accepted but the amount of the accrued rent arrears is not agreed.

23. The Respondents have three children of primary and nursery school age who reside with them.

24. The Respondents and their family have no health issues or vulnerabilities.

25. The Respondents have approached the local authority with a view to securing social rented housing. They will stay with their parents until an offer of rehousing is made to them.

### **Reasons for decision**

26. The Tribunal was satisfied based on the documents before it that the eviction ground was made out and that the Applicant was entitled to sell the property as the joint owner and executor and that he intended to do so or put it up for sale within three months of the tenancy ending. The Tribunal therefore considered whether it was reasonable to make an eviction order on account of the facts in this case.

27. The Applicant's position is financially untenable and he requires to sell the let property. His situation is worsened by the fact that the Respondents have stopped paying rent for the property and he is now meeting the mortgage payments from his own resources.

28. The Tribunal carefully considered the Respondents' circumstances. The Respondents did not oppose the eviction order being granted. The Respondents wished to be rehoused in social rented housing and were able to live with their parents until they were rehoused. As a result, they did not seek any additional time before the eviction order could be enforced.

29. The Tribunal also took into account that the Respondents had a clear obligation to pay rent and offered no valid justification for withholding payment.

30. In all of these circumstances the Tribunal considered it was reasonable to grant an eviction order.

### **Decision**

The Tribunal determined that an eviction order be granted in respect of the property in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Applicant is entitled to sell the let property, intends to sell it for market value or at least put it up for sale within 3 months of the Respondents ceasing to occupy it and the Tribunal is satisfied it is reasonable on account of these facts to issue an 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.

# V Bremner

24 July 2025

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Legal Member/Chair

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Date