

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 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/25/0544

Re: Property at 40 Howden Crescent, Jedburgh, TD8 6JY (“the Property”)

Parties:

Mr Andrew Minto, 3 Howden Crescent, Jedburgh, TD8 6JY and Ms Doreen Minto, 21 Queen's Court, Queen Street, Jedburgh, TD8 6HY (“the Applicants”) and

Cullen Kilshaw LLP, Bank Chambers, Bank Close, Galashiels, TD1 1BG (“the Applicants’ Representative”) and

Ms Stephanie Johnston, 40 Howden Crescent, Jedburgh, TD8 6JY (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

A Khan - Ordinary Member

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined as follows:

Background

1. This Application, contained in papers lodged with the Tribunal, was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).
2. The Applicants’ Representative, had provided the Tribunal, in the Application, with copies of the parties’ Private Residential Tenancy Agreement (“the PRT”), the Notice to Leave (“NTL”) served on the Respondent and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to Scottish Borders Council. All of these documents and forms had been correctly and validly

prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied.

3. The Respondent, Ms Johnston had been validly served by Sheriff Officers with the Notification of Hearing, Application papers and Guidance Notes from the Tribunal on 4th July 2025, and the Sheriff Officers' Certificate of Intimation was produced.

Case Management Discussion on 15th August 2025

4. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call at 2.00pm on 15th August 2025. The Applicants' Representative's Mr J. Rodger attended as did the Respondent Ms Johnston.
5. Mr Rodger referred to the Application papers and Ms Johnston's e-mail sent to the Tribunal's office on 23rd July 2025, in which she set out her family's circumstances. He stated that the Applicants Mr Minto and Ms Minto wish to sell the Property for financial reasons. He said that they no longer wish to be landlords. He said that they had inherited the Property and it was formerly occupied by their late brother Mr Christopher Minto. Mr Rodger said that there is no mortgage in respect of the Property and that Mr Minto and Ms Minto do not have any other rental properties. Mr Rodger said that Ms Johnston's rent is up to date. Mr Rodger said that service of the NTL took place in October 2024, some 10 months or so previously, and that Mr Minto and Ms Minto now wish to have the Property sold. Mr Rodger asked the Tribunal to grant an eviction order and said that Mr Minto and Ms Minto would not object to a deferred enforcement date for the order which would suit Ms Johnston's family circumstances and provide her with additional time to obtain another tenancy.
6. Ms Johnston also referred to her e-mail sent on 23rd July 2025. She said that she works for the NHS and agreed that her rent account for the Property is up to date. She stated that she is due to have her third child in late October. She said that her due date is 31st October 2025 but, given some health conditions that she has, the baby may be born earlier. Ms Johnston said that at the moment she resides in the Property, which has three bedrooms, with her partner and two children, aged 3 and one and a half. She said that her stepdaughter, who is aged 12, also stays regularly. Ms Johnston stated that she has applied to The Scottish Borders Council for social housing, as she said in her said e-mail of 23rd July, and is hoping to obtain a new tenancy with them. She stated, in particular, that she hopes to be able to obtain the tenancy of a new build property and said that new social housing properties, with three or four bedrooms, are currently being built in Jedburgh with a planned completion date at the end of November 2025. She stated that her local authority are waiting on her confirming the grant of an eviction order so that they can give her application for social housing priority. Ms Johnston said that she understood that Mr Minto and Ms Minto are entitled to recover the Property and said that a deferred enforcement date in respect of an eviction order would be helpful to her and her family as it would allow them further time to obtain a suitable, alternative tenancy.

Statement of Reasons

7. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
8. Schedule 3 (1) (1) of the 2016 Act provides that it is an eviction ground that a landlord intends to sell the let property and confirms the criteria for the grant of an eviction order on this ground.
9. The Tribunal considered the Application papers, including the PRT, NTL and supporting papers. The Tribunal, in particular, considered the statements and submissions made by Mr Rodger and Ms Johnston at the CMD. Having done so the Tribunal found in fact that the Applicants seek recovery of the Property in order to sell it and found in law that Ground 1 in Schedule 3 to the 2016 Act is satisfied. Given that the Applicants and Ms Johnston agreed that the grant of an eviction order, with a deferred enforcement date, would be appropriate, the Tribunal also found that it is reasonable to make such an order. In this regard the Tribunal further found that it is reasonable that there is a deferred enforcement date of 17th November 2025. The Tribunal considered it fair and just to have such a deferred enforcement date as the intervening period will allow Ms Johnston to have her baby and will also give time for Scottish Borders Council to process her application for a fresh tenancy.

Decision

10. The Tribunal therefore makes an eviction order as sought in this Application.

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.

Gerald McWilliams

G McWilliams

Tribunal Legal Member

15th August 2025

Date

