

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/25/1164

Re: Property at 222 Califer Road, Forres, Moray, IV36 1JE (“the Property”)

Parties:

Mrs Sheila Masson, High North, Kingsteps, Lochloy Road, Nairn, IV12 5LF (“the Applicant”)

Ms Emma Harper, 222 Califer Road, Forres, Moray, IV36 1JE (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant. The order is superseded until 19th January 2026.

Background

1. An application was received by the Housing and Property Chamber dated 13th March 2025. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016 namely that the Applicant wishes to sell the Property.
2. On 8th August 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 18th August 2025 at 10am by teleconferencing. The letter also requested all written representations be submitted by 29th August 2025.
3. On 28th August 2025, the Respondent’s representative, Ms Sonya Haywood, Moray CAB, emailed the Housing and Property Chamber noting that she had

been instructed, that she considered that there may be an issue with the Notice To Leave as it gave a 6 month notice period rather than 84 days and that the Respondent is awaiting a property from her local council. The email also detailed the reasons why moving from the area may cause significant issue to her family. This was notified to the Applicant by the Housing and Property Chamber.

4. On 15th August 2025, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 15th August 2025.

The Case Management Discussion

5. A CMD was held on 18th September 2025 at 10am by teleconferencing. The Applicant was present and represented herself. The Respondent was present and was represented by Ms Sandra Hayward not present.
6. The Applicant said that she was still seeking an order for eviction. She is trying to retire. She is hard of hearing and ongoing health issues. She is over retirement age. She considers that the Respondent has been a good tenant and has not caused her any issues. She needs to sell the Property to retire. This is the last of her rental properties that she has to sell. She gave the Respondent extra notice period so that she would not be required to leave between November 2024 – February 2025. The Applicant said that she considers that she has been a good landlord and ensured that all repairs have been undertaken. The Applicant said that she would not object to allowing the Respondent a bit more time to be rehoused as long as there was an end point that would allow her to sell the Property.
7. The Tribunal and Ms Haywood discussed the issues around the Notice to Leave. The Tribunal noted that is at least 84 days notice which is needed. The Respondent had significantly more than that. It would only prejudice the Applicant by extending the notice period. In terms of the service it was posted within two days. It could not be served before the third day. Given the greatly extended notice period, the Tribunal did not consider this point to be prejudicial to the Respondent. She still had well over 84 days even with the Notice to Leave not being posted for two days. The Tribunal referred to *Halcrow v. Davies* 2025UT68. Ms Haywood agreed with the points raised by the Tribunal and was no longer disputing the legality of the Notice To Leave.
8. Ms Haywood said that the Respondent's husband does not have transport but works in catering during unsociable hours which means that there is very limited public transport that he can use. The family need to stay within the vicinity of his work. Further the Respondent has a child with support needs which are being addressed at his current school. Ms Haywood said that Moray Council have now told the Respondent that she is number one on the list to be rehoused within the areas suitable to the family. She noted that overall the granting of an order was not opposed but she would like to request that further time be given to allow the Respondent to be rehoused.

9. The Tribunal consider the evidence before them. It noted that there was no objection to an order being granted. It was also noted that the Respondent needs a little bit longer to move and that this was not opposed by the Applicant. The Tribunal did not consider that there were any issues of reasonableness preventing it from granting an order.
10. The Tribunal granted an order for eviction superseding the Order until 19th January 2026.

Findings and reason for decision

11. A Private Rented Tenancy Agreement commenced 30th December 2021.
12. The Applicant intends to sell the Property once she has vacant possession. She wishes to retire from being a landlord as she is now past state retirement age.
13. The Respondent requires to live in the local vicinity due to family issues. She has applied to her local authority for housing. She is number one on the list to be rehoused next.
14. There have been no issues with the Respondent's occupation of the Property such as rent arrears.
15. The Respondent is not opposing an order being granted.
16. There are no issues of reasonableness that prevent an order from being granted.

Decision

17. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant. The Order was superseded to 19th January 2026.

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.

G. Miller

18th September 2025

Legal Member/Chair

Date