

**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/25/0862**

**Re: Property at 48 Culduthel Mains Court, Inverness, IV2 6RF (“the Property”)**

**Parties:**

**Mr John MacGregor, 128 Golf View Road, Inverness, IV3 8FE (“the Applicant”)**

**Mr Witold Gunerka, 48 Culduthel Mains Court, Inverness, IV2 6RF (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision**

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

**Introduction**

This is an eviction application under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the respondent by Sheriff Officers on 18 August 2025.

The CMD took place by teleconference on 23 September 2025 at 2.00 pm. The applicant was represented by David Sinclair Aiton of Sinclair Services. The respondent joined personally and was accompanied by his daughter who represented his interests.

**Findings and Reasons**

The property is 48 Culduthel Mains Court, Inverness IV2 6RF. The applicant is Mr John MacGregor who is the heritable proprietor of the property and the registered landlord. The respondent is Mr Witold Gunerka who is the tenant.

The parties entered into a private residential tenancy in respect of the property which commenced on 14 July 2018. The applicant relies upon ground 1 of schedule 3 to the 2016 Act. This specifies that it is an eviction ground where the landlord intends to sell the let property. The relevant notice period under ground 1 was one of 84 days.

The notice to leave relied upon in this case is dated 20 November 2024 and stipulates that the earliest an application be submitted to the tribunal would be 15 February 2025. There is evidence that the notice to leave was delivered to the respondent on 21 November 2024. Sufficient statutory notice was given and the notice to leave is valid.

The applicant requires to sell the property as it is no longer economically viable for him to operate it as a commercial landlord. It is his sole rental property. The mortgage commitments have increased considerably over recent times and this overhead, together with the additional financial demands of meeting the responsibilities of a landlord does not make it economically viable to retain the property to lease out. The applicant has produced a letter from his estate agent to support his claimed intention to sell.

The tribunal was satisfied on the basis of the unchallenged evidence produced that it is the applicant's genuine intention to sell the let property. The tribunal proceeded to consider the issue of reasonableness on the making of an eviction order.

The respondent is not opposed to the application. On 1 September 2025 the tribunal received a written submission by Ms Iwona Gunerka on behalf of the respondent who is her father. This confirms that the respondent is aware as to why the tenancy is being terminated and the basis of this is accepted. The respondent has no reasons or requirements to remain within the let property. Whilst he is elderly, he is relatively fit and healthy. It is confirmed that Highland Council have received and processed his application for council housing and that an appointed housing officer will allocate him a tenancy once the eviction order is made. A Section 11 Homelessness notice has been issued to the local authority. The respondent will be provided with alternate accommodation in the event of an eviction order being made.

Weighing up the respective circumstances of the parties, the tribunal concluded 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.**

**Richard Mill**

**22 September 2025**

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**Legal Member/Chair**

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**Date**