



**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 (“the 2016 Act”)**

**Chamber Ref: FTS/HPC/EV/25/0688**

**Re: Property at 50 Arniston Way, Paisley, PA3 4BZ (“the Property”)**

**Parties:**

**Mr Joe Samuel, 3 Glebe Road, Newton Mearns, G77 6DU (“the Applicant”)**

**Mr Michael Adebayo Fadipe, Miss Gloria Fadipe, 50 Arniston Way, Paisley, PA3 4BZ (“the Respondents”)**

**Tribunal Members:**

**Sarah O'Neill (Legal Member) and Elizabeth Williams (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession should be granted in favour of the Applicant. The Tribunal delayed execution of the order until 30 January 2026.**

**Background**

1. An application was received from the Applicant’s representative on 18 February 2025 under rule 109 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (‘the 2017 rules’) seeking recovery of the property under Ground 1 (landlord intends to sell) as set out in Schedule 3 of the 2016 Act.
2. Attached to the application form were:
  - (i) Copy Notice to Leave addressed to the Respondents dated 26 July 2024 citing ground 1, and stating the date before which proceedings could not be raised to be 22 October 2024.

- (ii) Copy notice under section 11 of the Homelessness etc. (Scotland) Act 2003 addressed to Renfrewshire Council, together with proof of sending by email on 18 February 2025.
  - (iii) Copy sales agreement between the Applicant and Castle Residential dated 1 March 2025 in relation to the property.
- 3. On 27 March 2025, following a request from the Tribunal administration, the Applicant submitted: 1) an amended application including the names of both Respondents and 2) proof of sending of the Notice to Leave by email to the Respondents on 26 July 2024.
- 4. The application was accepted on 12 May 2025.
- 5. Notice of the case management discussion (CMD) scheduled for 8 October 2025, together with the application papers and guidance notes, was served on the Respondents by sheriff officer on behalf of the Tribunal on 25 August 2025.
- 6. Written representations were received from the Respondents on 10 and 29 September and 1 October 2025 and from the Applicant's representative on 30 September 2025.

### **The case management discussion**

- 7. A CMD was held by teleconference call on 8 October 2025. The Applicant was represented by Mrs Jacqueline McLelland and Ms Daryl Harper of Castle Residential. Both Respondents were present on the teleconference call and represented themselves.

### **Submissions on behalf of the Applicant**

- 8. Mrs McLelland confirmed that the Applicant sought an eviction order. She said that it remained the Applicant's intention to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it. She explained that the Applicant is currently living in a two bedroom property with his family. He has two children and there may be another on the way. The family therefore urgently needs to move to a bigger property, and the Applicant needs to sell the property in order to buy a larger home.
- 9. The Applicant has three rental properties, including this one, all of which are managed by Castle Residential. The Applicant is planning to sell all three properties. This property is being sold first because the Applicant is losing money on it. There is a mortgage over the property, and although the rent was

increased recently, it does not currently cover the mortgage, factoring costs and maintenance. Mrs McLelland was unable to confirm how much the Applicant is losing on the property each month.

10. The Applicant had considered selling the property with the Respondents in situ as sitting tenants. Castle Residential had approached investors but the offers which had been made were not sufficiently high. The Applicant was looking to sell the property at market value. He had also offered to sell it to the Respondents, but they were not in a position to buy it.
11. The Respondent had been good tenants and had always paid their rent. Castle Residential had tried to find them another suitable property to move into, but there had been nothing available which met the family's specific needs.

### **The Respondents' submissions**

12. The second Respondent, Mrs Gloria Fadipe, told the Tribunal that the Respondents understood that the Applicant had a right to sell the property. She said that he had been fair and understanding. The Respondents did not wish to oppose the eviction application, but they asked the Tribunal to give them more time to find somewhere else to live. They had been trying very hard to find another property since they received the Notice to Leave, but had so far been unable to find anything that met their specific needs. They had not expected it to be so difficult to find somewhere else.
13. The Respondents have two sons aged 8 and 10. Their younger son is autistic. After two years in a mainstream school without sufficient support, they had finally managed to secure a place for him at a specialist school in Renfrewshire. If they moved out of the area, he may have to move from this school. Their older son also has additional support needs, and has only recently started to settle into his primary school and make friends. If he had to move outwith the local area, this would disrupt his education and his mental health.
14. The Respondents therefore need to find a home within the catchment areas for the boys' schools. In addition to this, their younger son's condition causes him to jump and up down often. This caused serious complaints about noise from neighbours when they lived in a previous flat. To avoid this happening again, the Respondents feel that they can only consider ground-floor flats in soundproofed buildings. This makes their search for a suitable home difficult.
15. The Respondents have registered with a number of local housing associations, and continue to search every day for suitable private rented properties. They

have applied for numerous private rented properties, but have been unsuccessful so far due to a shortage of available properties. They would be willing to pay a higher rent than they are presently paying, if they found somewhere suitable. They are not in a position to buy a property, as they do not think they would be able to get a mortgage.

16. The Respondents and their family are currently living in the UK on Mrs Fadipe's post-study visa, which ends on 31 January 2026. Mrs Fadipe works remotely for a Nigerian company. Mr Fadipe is working for a UK company and is hopeful that his stay can be extended through sponsorship by that company. He has started the process for this, and hopes to hear the outcome by the end of the year.
17. Due to their visa status, the Respondents do not have recourse to public funds, which means that they are not eligible for council housing. They had been in touch with their MSP about this. Their MSP had contacted the Council, which had advised that if the Respondents had children in their household, they could contact social work for some assistance.
18. In January 2025, their MSP had asked for their consent to share their personal information with Children's Services at the Council, to find out whether that would assist their housing priority with the housing associations they had applied to. They had given this consent, but had heard nothing further from social work.
19. The Respondents were unsure as to whether an eviction order would increase their priority with the various housing associations. Some of the housing associations had told them they would need to obtain a "homelessness letter" from the Council, but they were unable to do this for the reasons they had explained.

## **Findings in fact**

20. The Tribunal made the following findings in fact:

- The Applicant is the sole owner of the property. He is therefore entitled to sell the property.
- The Applicant is the registered landlord for the property.
- There is a private residential tenancy in place between the parties, which commenced on 27 January 2023.
- The Notice to Leave was validly served on the Respondents by email on 26 July 2024.

- The Applicant intends to sell the property or put it up for sale within 3 months of the Respondents ceasing to occupy it.
- The Respondents did not seek to oppose the application.

## **Reasons for decision**

21. The Tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties.
22. The Tribunal considered whether the legal requirements of Ground 1, as set out in Schedule 3 of the 2016 Act (as amended), had been met. Ground 1 states:

### ***Landlord intends to sell***

*1(1) It is an eviction ground that the landlord intends to sell the let property.*

*(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—*

*(a) is entitled to sell the let property, and*

*(b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and*

*(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.*

*(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—*

*(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,*

*(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.*

23. The Tribunal determined that as the owner of the property, the Applicant is entitled to sell the property.
24. The Tribunal then considered whether the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondents ceasing to occupy it. The Tribunal noted that the Applicant had

produced a sales agreement with Castle Residential dated 1 March 2025 regarding the sale of the property. The Tribunal considers that this is evidence tending to show that the Applicant has the intention set out in sub-paragraph 2(b) of Ground 1.

25. The Respondents did not dispute that the Applicant was entitled to, or intended to, sell the property. Having had regard to the oral evidence of Mrs McLelland and the signed sales agreement with Castle Residential, the Tribunal determined that the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondents ceasing to occupy it.

### **Reasonableness**

26. The Tribunal then considered whether it was reasonable to make an order for recovery of possession. In doing so, it took into account all of the circumstances of the case.
27. The Tribunal noted that the Applicant intends to sell the property because he needs to buy a larger home for himself and his expanding family. He has three rental properties in all, and is looking to sell all of them. He has chosen to sell this property first because the rent payable by the Respondents is not covering the costs of the property. The Tribunal noted that the Applicant did have two other rental properties, and had had not produced any documentary evidence to demonstrate the extent of his financial loss from the property.
28. The Tribunal also took into account the Applicant's attempts to find an investment buyer who would buy the property with sitting tenants, and his offer to sell the property to the Respondents.
29. The Tribunal noted that the Respondents had been aware of the Applicant's intention to sell for more than a year. It had now been more than 14 months since the Notice to Leave was sent.
30. The Tribunal noted the very difficult circumstances in which the Respondents found themselves, given the health and educational needs of their sons. It also took into account the fact that they had clearly been trying very hard to find another property which meets their needs. They did not seek to oppose the eviction order, and were simply asking for more time to find somewhere else.
31. Having carefully considered all of the evidence and all of the circumstances of the case as set out above, the Tribunal considered that on balance it was reasonable to grant an eviction order. It gave particular weight to the lack of

opposition to the application from the Respondents, and the fact that they had been aware of the Applicant's intention to sell the property for a significant period of time.

32. The Tribunal therefore determined that an order for recovery of possession should be granted in favour of the Applicant.
33. Before deciding to grant the order, the Tribunal had sought the views of both parties on the possibility of delaying execution of the eviction order in terms of rule 16A of the 2017 rules, in order to give the Respondents more time to find suitable alternative accommodation.
34. The Respondents said that while they would move out of the property as soon as possible once they find somewhere else to go, they did not know how long this would take. They therefore sought as long an extension to the eviction date as possible.
35. Mrs McLelland said that the Applicant was sympathetic to the Respondents' situation. He was in a difficult financial situation himself, however. It had also taken a year for the process to reach this stage. She indicated that the Applicant would be agreeable to an extension of around two months to the standard timescale. Having weighed up the views of the parties on delaying execution of the order, and taking into account the Respondents' current visa situation, the Tribunal considered that it would be reasonable in all the circumstances to delay execution of the order until 30 January 2026 (31 January being a Saturday).

## **Decision**

The Tribunal grants an order in favour of the Applicant against the Respondents for recovery of possession of the property. The Tribunal delays execution of the order until 30 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.**

Sarah O'Neill

8th October 2025

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Legal Member/Chair

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Date