



**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/24/5749

Re: Property at 18 Dunbar Court, Glenrothes, Fife, KY6 1JW (“the Property”)

Parties:

Mr Robert McCulloch, 2 Greenburn Cottage, Lockerbie, DG11 2RP (“the Applicant”)

**Ms Anda-Madalina Ciuraru, Mr Radu Florin Amariel, 18 Dunbar Court,
Glenrothes, Fife, KY6 1JW (“the Respondents”)**

Tribunal Members:

Jim Bauld (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted

Background

1. By application dated 13 December 2024 the applicant sought an order under section 51 of Private Housing (Tenancies) (Scotland) Act (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the procedure rules”). On 3 APRIL 2025 the application was accepted by the tribunal and referred for determination by the tribunal.
2. A Case Management Discussion (CMD) was set to take place on 18 September 2025 and appropriate intimation of that hearing was given to all parties.

The Case Management Discussion

3. The Case Management Discussion (CMD) took place on 18 September 2025 via telephone case conference. The applicant attended along with Mrs Helen Couser, his letting agent from Fife Letting Service, Kirkcaldy. The Respondents did not take part..
4. The tribunal explained the purpose of the CMD, the overriding objective of the tribunal and the powers available to the tribunal to determine matters.
5. The tribunal asked various questions of the applicant and his letting agent with regard to the application.

Summary of initial discussions at CMD

6. The tribunal noted that the eviction was sought under and in terms of ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016
7. That ground is currently in the following terms.

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, .

(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

8. The parties were the landlord and tenant of a tenancy of the property which was a private residential tenancy under and in terms of the 2016 Act.

9. A Notice to Leave had been served on the respondent indicating that the applicants intended to seek an eviction order based on ground 1.
10. The landlord is entitled to sell the property.
11. The applicant explained that he intends to sell the property and has intended to do so for a considerable period of time. He explained that he is retiring from his job as a health and safety professional. He plans to retire in January 2026. The proceeds of sale from this property and two others which he has already recovered and sold will be used to fund his retirement plans. He explained that his wife has significant health issues.
12. Mrs. Couser explained that she has been in recent contact with the first named respondent, Ms. Ciuraru. The second named respondent, Mr. Amariel, has now vacated the property. The property is occupied by the first respondent together with her daughter who is about 7 years old. The respondent is not currently in work and is receiving Universal Credit. The current rent is being paid together with a contribution towards the outstanding arrears. The respondent and her daughter have no known health issues nor vulnerability issues. The letting agent explained that the respondent has been in touch with Fife Council and has gone through the housing options interview process and has applied for housing via the common housing register which is operated in Fife. She is therefore on the waiting list for accommodation with the council and all local housing associations. Mrs Couser advised that she has also provided a tenancy reference to Kingdom Housing Association and respect of the respondent

Findings in fact

13. The Applicant is the registered owner of the property.
14. The Applicant and the Respondents as respectively the landlord and tenant entered into a tenancy of the property which commenced on 6 December 2019.
15. The tenancy was a private residential tenancy in terms of the Act.
16. The agreed monthly rental was £450.
17. On 16 September 2024 the applicant served upon the tenants a notice to leave as required by the Act. Service was effected by email and the notice became effective on 12 December 2024. The notice informed the tenant that the landlord wished to seek recovery of possession using the provisions of the Act.
18. The applicant is entitled to sell the property and intends to do so.

Discussion and reasons for decision

19. The ground for eviction under which this application was made is the ground contained in paragraph 1 of schedule 3 of the 2016 Act. The ground is that the landlord intends to sell the let property. When the 2016 Act was originally passed, that ground of eviction was mandatory. The tribunal was required by law to grant the eviction order if satisfied that the ground was established.
20. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on this ground can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
21. The only matter to be determined in this application is whether it is reasonable to grant the order.
22. The applicant intends to sell the property at market value or at least put it up for sale, within 3 months of the tenant ceasing to occupy.
23. The applicant indicated that he wishes to sell the property and had wished to do so for a considerable period of time. He is retiring and both he and his wife are suffering from health issues. He also owned two other properties which had been rented out but they have now been recovered and sold. This is the last property in his portfolio.
24. The first named respondent has now registered with the local council and various local housing associations but has as yet received no offers of accommodation. She has also engaged with the local council's homelessness prevention team and has been given certain advice. She has been told that the council will only deal with her as a priority if and when an eviction order is granted and she is within a period of weeks of actually being evicted.
25. The order for possession was sought by the landlord on a ground specified in the 2016 Act and properly narrated in the notice served upon the tenant.
26. The tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon that ground.
27. The tribunal accepted the unchallenged evidence of the landlord that she intends to sell the property.
28. The ground for eviction was accordingly established.

29. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on this ground can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact
30. The Tribunal now has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties. This is confirmed by one of the leading English cases, **Cumming v Danson**, ([1942] 2 All ER 653 at 655) in which Lord Greene MR said, in an oft-quoted passage:

“[I]n considering reasonableness ... it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account”.

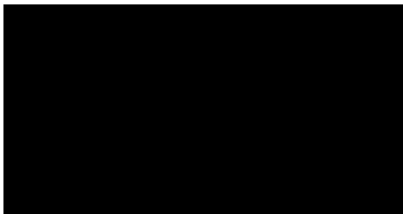
31. In determining whether it is reasonable to grant the order, the tribunal is therefore now required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
32. The tribunal finds that it is reasonable to grant the order.
33. The tribunal accepts that the landlord is entitled to sell the property and wishes to do so. There is no presumption, as a matter of law, in favour of giving primacy to the property rights of the landlord over the occupancy rights of the tenant, or vice versa. However, the tribunal accepts that the remaining tenant appears to be generally not opposed to the sale of the property and is willing to leave the property once they have obtained alternative accommodation.
34. The respondents have sought assistance from the local council and have been told that they will be fully assisted in obtaining alternative accommodation only when an eviction order is granted and they face actual homelessness.
35. The tribunal would hope that the applicant will allow the respondent sufficient and appropriate time to secure alternative accommodation without the necessity of enforcement of the order.
36. The council's homelessness prevention team have effectively advised the respondent that they will not obtain assistance unless an eviction order is granted thus triggering specific statutory duties under the Housing (Scotland)

Act 1987. The granting of the order will therefore ultimately (and almost counter intuitively) benefit the respondent in her attempts to obtain alternative suitable accommodation

37. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that the final order should be made at the CMD.

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.



Date: 19 September 2025