

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 and Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules)**

**Ref: FTS/HPC/EV/25/0377**

**Re: Property at 1 Caledonian Court, Eastwell Road, Dundee, DD2 3FF (the Property)**

**Parties:**

**Mr Richard Nicoll and Mrs June Nicoll, 6 Glenisla View, Alyth, PH11 8LW (the Applicants)**

**Robertson Property Management Limited, 76 East Dock Street, Dundee, DD1 3LH (the Applicants' Representative)**

**Mr Jamie Black, 1 Caledonian Crescent, Eastwell Road, Dundee, DD2 3FF (the Respondents)**

**Tribunal Members:**

**Ms Susanne L. M. Tanner K.C. (Legal Member)  
Miss Liz Williams (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal):**

- (i) was satisfied that Ground 1 in Schedule 3, Part 1 to the 2016 Act was established by the Applicants, in that on the day the tribunal considered the application for an eviction on its merits: the Applicants as registered proprietors intend to sell the let Property for market value, or at least put it up for sale within three months of the Respondent ceasing to occupy it;**
- (ii) was satisfied that it was reasonable to make an eviction order in the circumstances; but to defer the enforcement date to 20 November 2025;**
- (iii) made an order for eviction in terms of Section 51 of the 2016 Act.**

**The decision of the tribunal was unanimous.**

## **Statement of Reasons**

### **Procedural Background**

1. The Applicants' Representative made an application to the tribunal on 30 January 2025 in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules). The Applicant seeks the Respondent's eviction from the Property under Ground 5 of Schedule 3 (although the narrative states that the reason is the landlords' intention to sell).
2. The Applicants' Representative provided the following documents with the Application:
  - 2.1. Private Residential tenancy agreement;
  - 2.2. Authority to act;
  - 2.3. Notice to Leave and cover letter, with email service; and
  - 2.4. Copy section 11 Notice to the Local Authority and email.
3. On 31 January 2025, the tribunal's administration obtained a copy of the Title Sheet for the Property which shows that the Applicants have been the joint registered proprietors since 25 June 2013.
4. The tribunal's administration searched Landlord Registration Scotland which shows that the Applicants are the registered landlords of the Property with Dundee City local authority and the Applicants' Representative is the agent.
5. The Application was accepted for determination. The tribunal sent letters of notification dated 12 April 2025 to both parties with the date, time and arrangements for joining the Case Management Discussion (CMD) teleconference in relation to the Application on 6 June 2025 at 1000h. The Application paperwork was personally served on the Respondents by Sheriff Officers. The Respondent was told that if they wished to submit written representations these should be sent to the tribunal by 3 May 2025.
6. The Respondent did not submit any written representations.
7. The CMD was postponed on the application of the Applicant's Representative and was re-scheduled for 16 September 2025 at 1000h.

## **CMD: 16 September 2025, 1000h, Teleconference**

8. Mrs Devine (nee Miss Anderson) from the Applicants' Representative attended.
9. Mr Black, the Respondent, attended.

### **Applicants' Representative's submissions**

10. The tribunal raised the fact that the Application form, box 5, stated that *'due to ill health the landlords require vacant possession of the property so they can put the property on the market for sale'*; but it also states *'Ground 5 – Rule 9'*. The tribunal noted that the Ground for landlord's intention to sell is Ground 1 in Schedule 3.
11. Mrs Devine requested to amend '5' to '1'. The correct ground is landlord's intention to sell and she wrote '5' in error. The Application is made on the basis of landlord's intention to sell and the Notice to Leave was served on that ground.
12. Mr Black stated that there was no opposition to amendment being made.
13. The tribunal allowed the amendment to the Application to proceed under Ground 1 of Schedule 3.

### **Submissions by the Respondent**

14. Mr Black said that he is not opposing the application for an eviction order but he requested more time before enforcement of the eviction order. He said that he has not been in touch with the tribunal because he is unaware of the process.
15. Mr Black said that he had spoken to Dundee City Council as the family is trying to be re-housed by the local authority. He said that they have been placed on the list for accommodation and given 70 points which is the maximum. Mr Black has put down all the areas that they would like for schools. He has been told that they are currently moving up the queue. However, he was told that with the postponement of the last CMD, it set them back to 12 or 13 in the queue. He has initiated a complaints process with the local authority in relation to their application.
16. Mr Black said that he currently works full time although he has had to take some time off because his partner is off work ill. He said that he is still continuing to pay his rent for the Property in full and on time. He lives in the Property with his partner and her two children who reside with them full time and his two children who come on alternate weeks, 2 to 3 nights a week each. The size of the Property is a 2 bedroom with a walk in wardrobe which is 2 metres by 2 metres which has been

set up as a single room. Mr Black and his partner have the principal bedroom. In the second bedroom, they have bunk beds with a trundle bed and they use blow up beds. It is used by his partner's child who is 9. The walk in wardrobe single room is used by his partner's child who is 14. They can only have one of Mr Black's children at a time. His daughter is 7, she is the youngest and lives with her mum full time and comes three times a week. His son is 8, he comes alternate days. When his children come they share the bigger bedroom with his partner's child.

17. The Council has said that the family requires a three bedroom property to avoid overcrowding.
18. Mr Black said that he did not want to go through this as the landlord has been a very good landlord.
19. Mr Black said that he is not sure how much time he needs in addition to the usual 30 day period. The Council do not give guidance on how long it could take. He would like as much time as possible. He would really like to avoid being placed in temporary accommodation. He said that it is an upsetting experience. Mr Black asked if the Applicants and tribunal would consider giving a six month extension on the tenancy.

### **Applicants' Representative's Submissions**

20. Mrs Devine stated that she had no instructions from her clients about whether they would agree to a delay to the date for enforcement. She said that the Notice to Leave was served 28 October 2024, which is coming up to 11 months. The Applicants are looking to recover their property. They are both 77. They have ill health. They had another property. Notice was served at the same time. That tenant moved out and that property was sold at the beginning of August 2025. The property income was originally meant to be their retirement income but now they want to sell the Property and enjoy their lives.
21. Mrs Devine confirmed that the Respondent's rent is up to date and payment has been received today. There have been no issues with Mr Black as a tenant regarding rent or inspections. The intention to sell is nothing to do with the tenancy. It is related to the Applicants' ill health and intentions for retirement.
22. The tribunal adjourned to allow Mrs Devine to seek instructions from her clients. Following the adjournment, Mrs Devine stated that she had spoken to Mrs Nicol. The Applicants would be willing to delay enforcement by an additional 5 weeks on top of the 30 days (to 20 November 2025). The Applicants would not agree to six months.

23. Mr Black stated that he understood the Applicants' position and asked about rent to the end of the tenancy. He stated that his rent is paid on 15 or 16<sup>th</sup> of month.

24. Mrs Devine confirmed that the pro rata apportionment of rent would be calculated for the final period.

25. The tribunal adjourned to deliberate, having heard from both parties.

**26. The tribunal makes the following findings-in-fact:**

26.1. The Applicants are the registered proprietors of the Property.

26.2. The Applicants wish to sell the Property with vacant possession and realise the proceeds to fund their retirement.

26.3. There is a private residential tenancy agreement between the Applicants and the Respondent for the Property which began on 1 April 2020.

26.4. On 28 October 2024, a Notice to Leave containing ground 1 of Schedule 3 to the 2016 Act was served on the Respondent.

26.5. The Applicants have given the Respondent at least 84 days' notice that they require possession.

26.6. The Application to the tribunal was made on 30 January 2025.

26.7. The Applicants intend to sell the Property on the open market or at least market it for sale within three months of vacant possession.

26.8. The Applicants have instructed a sales agent in respect of sale of the Property with vacant possession once obtained.

26.9. The Property is a two bedroomed property, with a box room.

26.10. The Respondent resides in the Property with his partner and her two children full time and his two children three nights per week on alternate weeks.

26.11. The Respondent's rent is up to date.

26.12. The Respondent has taken steps to find alternative housing with the local authority and the local authority has waitlisted the family for a three bedroomed property but as yet they have not obtained alternative housing.

## **Discussion**

27. The order for eviction is sought in terms of Section 51 and paragraph 1 of Schedule 3 to the 2016 Act (as amended). The tribunal was satisfied that the requirements of those provisions have been met. The tribunal is satisfied that the Applicants intend to sell the Property or at least put it up for sale within three months of an eviction order being made.
28. In relation to reasonableness, reference is made to the tribunal's findings in fact. The Applicants have retired and wish to realise the proceeds of sale to fund their retirement. The Application for eviction is not opposed by the Respondent. The Respondent has not yet found an alternative property but is waitlisted by the local authority for a three bedroomed property. The Respondent wished extra time to find an alternative property and move with his family. The Applicant agreed to an additional five weeks in addition to the statutory 30 day period.
29. The tribunal was satisfied that it was reasonable to evict the Respondent in the circumstances of the case but to defer the date for enforcement of the order to 20 November 2025.

## **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.**

Susanne Tanner K.C.

**16 September 2025**

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**Ms. Susanne L. M. Tanner K.C.**  
**Legal Member/Chair**