



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/25/0463

Re: Property at 4 Brunton Quadrant, Glenrothes, KY7 4EQ (“the Property”)

Parties:

Mr Steven Duncan, Mrs Julie Duncan, 10 Dalcross Way, Dunfermline, Fife, KY12 7RT (“the Applicant”)

Mrs Wilma Curtis, Mr Charles Curtis, 4 Brunton Quadrant, Glenrothes, KY7 4EQ (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mr A Khan (Ordinary Member)

Decision

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

Background

1. This is a Rule 109 application received in the period between 4th February and 8th March 2025. The Applicants are seeking an eviction order under ground 1 of schedule 3 to the Act. The Applicants lodged a copy of a private residential tenancy agreement between the parties commencing on 23rd June 2020, a notice to leave with evidence of service, section 11 notice with evidence of service, and evidence of intention to sell.
2. Notification of the application and Case Management Discussion was made upon the Respondents by Sheriff Officer on 23rd July 2025.

The Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by telephone conference on 4th September 2025. The Applicants were in attendance. The Respondent, Mrs Curtis was in attendance and representing Mr Curtis.

4. The Tribunal explained the purpose of a CMD. The Tribunal explained the issues which it had to consider before deciding whether or not to grant an order.
5. During discussion, the Tribunal informed the Applicants that it is an independent body that is not responsible for the introduction of Government legislation.

The Applicants' position

6. The Applicants explained they purchased the Property and another property in order to make money. It was their position that following legislative changes, they can no longer make a wage from letting the Property. The Applicants said it costs them around £100 per month to let the Property, when upkeep and tax are taken into account.
7. The Applicants said the Property was on the market for around a year, but no one will purchase it with a sitting tenant. The Applicants said a buyer pulled out when they discovered there was a sitting tenant. The Applicants have been left with the costs of the aborted sale. The Applicants said this was not what they planned when purchasing the Property, describing the Property as a noose around their necks. The Applicants said they have five children to support.
8. Responding to questions from the Tribunal as to their position on the Respondent's circumstances, the Applicants said they could appreciate the Respondent was in a dire situation, but they cannot be held responsible for that. There are no council houses available and rents are very low for the surrounding area.
9. Responding to questions as to why they had not increased the rent, the Applicants said the Government had made it impossible to do so at the time of the Covid-19 pandemic. The Applicants said if they were to increase the rent now, they would end up paying more tax. The Applicants said they did not want to make tenants feel they could not afford to pay their rent by increasing the rent.

The Respondents' position

10. The Respondent confirmed that both Respondents had received the notice to leave, although Mr Curtis is in a care home and is likely to be there long term. Mrs Curtis said Mr Curtis was aware of the application and the CMD.
11. The Respondent said she is not opposed to the order being granted as she feels the Applicants have the right to sell their property. The Respondent has been to the local authority and has been told she will not be provided with social housing until an eviction order has been granted and she is classed as homeless. The Respondent said she has not been told what will happen if an

order is granted and there is no housing available. The Respondent said she has some health issues and would require a property without stairs. The Respondent said she has lost heart in the Property and is quite willing to go elsewhere.

12. Responding to questions from the Tribunal, the Respondent said she has discussed matters with Mr Curtis and, although he is not happy for her, he accepts the order should be granted. The Tribunal explained to the Respondent that additional time could be granted to delay execution of an order. The Respondent was clear that she did not wish to request additional time, as she is finding the situation stressful due to uncertainty. The Respondent said she had not taken advice on her situation, as people had told her she would have to leave the Property following the notice to leave. The Respondent reiterated her desire to acquire other housing and leave the Property.

13. The Tribunal adjourned to consider its decision.

Findings in Fact and Law

14.

- (i) Parties entered into a private residential tenancy in respect of the Property which commenced on 8th March 2025.
- (ii) Notice to leave has been served upon the Respondents.
- (iii) The Applicants intend to sell the Property.
- (iv) The Applicants are entitled to sell the Property.
- (v) The Applicants intend to sell the Property or at least put it up for sale within three months of the Respondent ceasing to occupy the Property.
- (vi) It is reasonable to grant an eviction order.

Reasons for Decision

15. Ground 1 of Schedule 3 of the Act provides that it is an eviction ground if the Landlord intends to sell the let property. The Tribunal may find that the ground is met if the landlord is entitled to sell the let property, intends to sell it for market value, or at least put it up for sale, within three months of the tenant ceasing to occupy it, and the Tribunal is satisfied that it is reasonable on account of those facts to issue an eviction order. The Tribunal is satisfied that ground 1 is met.

16. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.

17. The Applicants claim that the Property costs them money, as they no longer make a profit in letting the Property. The Applicants have made a decision not to increase the rent on the Property, which may have helped to alleviate their financial hardship concerns.
18. The Respondent, Mrs Curtis, does not wish to remain in the Property. She is actively seeking social housing. Mrs Curtis suffers from ill-health.
19. The Tribunal was concerned that the Respondents have not taken advice on their situation, and that an argument against the reasonableness of granting an order may have been made if advice had been taken, particularly given Mrs Curtis's ill-health. The Tribunal was concerned at Mrs Curtis's belief that she had to leave because an application had been made to the Tribunal, which is not the case. However, Mrs Curtis, upon being told the options open to the Tribunal, including adjourning to a hearing on reasonableness, indicated again that she did not want to remain in the Property.
20. The Tribunal considered it was reasonable to grant the order sought.

Decision

21. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 8th October 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.

H Forbes

Legal Member

4th September 2025
Date

