



**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/25/0815

**Re: Property at Garden Cottage, Loganbank, Penicuik, EH26 0NY (“the
Property”)**

Parties:

**Mr Nick Atkins, Cairnwood, 7 Hartree Square, Biggar, ML12 6JJ (“the
Applicant”)**

**Mr Aaron Twigg, Mrs Sara Twigg, Garden Cottage, Loganbank, Penicuik, EH26
0NY (“the Respondent”)**

Tribunal Members:

Ruth O'Hare (Legal Member) and Nicholas Allan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) have been met in this case, and it would be reasonable to make an eviction order, with execution of the order suspended for a period of three months.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

Background

- 1 This is an application for an eviction order under section 51 of the 2016 Act and rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant relied upon ground 1 as the eviction ground, stating his intention to sell the property.
- 2 The application was referred to a case management discussion (“CMD”) to take place on 3 October 2025. The Tribunal gave notice of the CMD to the parties. Said notice was served upon the Respondents by sheriff officers.

- 3 The Tribunal subsequently received a request from the first Respondent to hold the CMD in person due to his accessibility requirements. The Tribunal therefore scheduled the CMD to take place at George House, Edinburgh. The Tribunal gave notice of this to the parties under rule 17(2) of the Rules.

The CMD

- 4 The CMD took place at George House, Edinburgh on 3 October 2025. The Applicant was present and represented by Mr Alastair Johnston, Solicitor. The Respondents were represented by Mr Twigg.
- 5 The Tribunal had the following documents before it:-
 - (i) Form E application form dated 24 February 2025 and paper apart;
 - (ii) Title sheet confirming the Applicant's ownership of the property;
 - (iii) Excerpt from the online landlord register confirming the Applicant's landlord registration;
 - (iv) Private residential tenancy agreement between the parties;
 - (v) Notice to leave and proof of delivery upon the Respondents by sheriff officers; and
 - (vi) Section 11 notice and proof of delivery to the local authority.
- 6 The Tribunal explained the purpose of the CMD and the legal test to be applied, and invited parties to make their submissions on the application. The following is a summary of the key elements of the submissions and is not a verbatim account.
- 7 Mr Johnston confirmed that the Applicant sought an eviction order. He intended to sell the property and had been in discussions with both Rettie and Savills estate agents. He intended to instruct Savills pending the conclusion of the Tribunal application. All relevant paperwork had been submitted to the Tribunal. The Applicant lived in another property with his wife, which had a mortgage. The Applicant wished to get his affairs in order and repay the mortgage with the proceeds from the sale of the let property. The Applicant confirmed that this was the only rental property in his name, but he had other business interests which involved rental properties. He had owned the property since around 1998.
- 8 Mr Twigg explained that he was finding the situation very hard. He understood that the Applicant required his property back. He wanted to find somewhere else for himself and his family to live. The Respondents have three children aged 14, 10 and 5. They had been in touch with the local authority but the local authority would not process their application for housing until the Tribunal made a decision. Mr Twigg wanted to find a secure home with the local authority. Mr Twigg indicated that he had paperwork with him that included medical evidence. He stated that he suffered from various medical conditions.

- 9 The Tribunal adjourned the CMD. It considered whether to postpone the CMD to provide Mr Twigg with the opportunity to seek legal advice regarding his situation. Upon resuming the CMD Mr Twigg was adamant that he did not want to take advice. He wanted the Tribunal to make a decision so that he could go back to the local authority. He had a meeting scheduled with them for Monday 6 October. Both the Applicant and Mr Twigg stated their wish for certainty moving forward. Mr Twigg in particular did not wish any further delay and appeared distressed at the thought of this.
- 10 The Tribunal adjourned the CMD again to deliberate before resuming the proceedings and confirming the outcome.

Findings in fact

- 11 The Applicant is the owner and landlord, and the Respondents are the tenants of the property, in terms of a private residential tenancy agreement.
- 12 On 15 August 2024 the Applicant delivered a notice to leave to the Respondents by sheriff officers. The notice to leave included ground 1 and stated that an application to the Tribunal would not be made any earlier than 8 November 2024.
- 13 The Applicant has sent the local authority a notice under section 11 of the Homelessness etc (Scotland) Act 2003 at the time of making this application.
- 14 The Applicant is entitled to sell the property.
- 15 The Applicant intends to sell, or market to sell, the property within three months of the Respondents ceasing to occupy. The Applicant plans to instruct Savills to act on his behalf in this regard.
- 16 The Applicant requires to sell the property in order to repay the mortgage on his own home.
- 17 The Respondents reside in the property with three children aged 14, 10 and 5.
- 18 The first Respondent has various medical conditions.
- 19 The Respondents wish to be rehoused by the local authority. The local authority will not prioritise their application unless the Tribunal makes an eviction order.
- 20 The Respondents do not oppose the eviction order.

Reasons for decision

- 21 The Tribunal was satisfied that it had sufficient information to make relevant findings in fact in order to reach a decision in the absence of a hearing under

rule 18 of the Rules. The Respondent had not sought to challenge the documentary evidence and submissions from the Applicant and it was clear that parties were broadly in agreement as to the substantive issues in this case.

22 Section 52 of the 2016 Act states that *“an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant”*. The Tribunal was satisfied based on the documentary evidence before it that the Applicant has given the Respondents a notice to leave that complies with the requirements of the 2016 Act. The Tribunal was further satisfied that the Applicant has given the local authority a section 11 notice in accordance with the requirements of section 56 of the 2016 Act.

23 The Tribunal went on to consider the wording of ground 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.”*

24 The Tribunal accepted that the Applicant is entitled to sell the property, and intends to do so within three months of the Respondents ceasing to occupy, as evidenced by his submissions at the CMD. The Tribunal found him to be credible and consistent in his explanation for the action he had taken.

25 The Tribunal therefore considered whether it was reasonable to make an eviction order on account of those facts, which requires the Tribunal to identify those factors relevant to reasonableness and determine what weight to apply to them.

26 The Tribunal took into account the Applicant's property rights, which entitle him to dispose of the property if that is his wish. The Tribunal also took into account his reasons for selling the property, namely to get his financial affairs in order and pay off the mortgage on his home. These were all factors to which the Tribunal gave significant weight.

27 The Tribunal carefully considered the Respondents' circumstances. The Tribunal took into account the fact that there were three dependents residing in the home, and that the first Respondent has various medical conditions.

However, ultimately the Tribunal gave most weight to the Respondents' wish to obtain a secure tenancy in the social housing sector. The Tribunal was aware that the making of an eviction order would assist them in this regard by prioritising their application for council housing. Mr Twigg had been clear that this was his desired outcome and he did not wish any further delay in the proceedings.

- 28 The Tribunal was however conscious of the scarcity of social housing at present, and the fact that it may take time for the local authority to source a suitable home for the Respondents and their family. The Tribunal therefore considered it would be reasonable to suspend execution of the eviction order for a period of three months to provide the local authority with further time to identify a property and minimise any disruption to the Respondents' living arrangements. Mr Johnston indicated towards the end of the CMD that the Applicant would be agreeable to this and it was apparent from their interaction during the CMD that parties have maintained an amicable relationship during this process.
- 29 Accordingly, having weighed those factors relevant to reasonableness the Tribunal concluded that the balance weighs in favour of making an eviction order in this case provided that execution of the order is suspended for a period of three months.
- 30 The Tribunal therefore determined that ground 1 had been met and determined to make an eviction order. The decision of the Tribunal was unanimous.

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.

Ruth O'Hare

7 October 2025

Legal Member/Chair

Date