



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/25/0873

Re: Property at 4a Lochlibo Court, Girdle Toll, Irvine, North Ayrshire, KA11 1RE (“the Property”)

Parties:

Mrs Kathleen McDowall, 8 Tollhouse Way, Girdle Toll, Irvine, North Ayrshire, KA11 1RB (“the Applicant”)

Mr Peter McPherson, 4a Lochlibo Court, Girdle Toll, Irvine, North Ayrshire, KA11 1RE (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 4 under schedule 3 to the said Act.

- **Background**
 1. An application was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of the Property being required for occupation by the landlord, being Ground 4 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).

- Case Management Discussion

2. A Case Management Discussion ("CMD") took place on 6 October 2025, by conference call. The Applicant was personally present. There was no appearance by or on behalf of the Respondent. The papers had been served on the Respondent by way of Sheriff Officer delivery on 25 August 2025 and accordingly the Tribunal was satisfied that the Respondent had due notice of the date and time of the CMD and that the CMD could proceed in his absence.
3. The parties had entered into a Private Residential Tenancy Agreement which commenced 17 March 2019. A Notice to Leave had been served on the Respondent on the basis of Ground 4 of Schedule 3 to the 2016 Act, on 29 November 2024. The Respondent remains in the Property.
4. The Applicant submitted that they had sold their family home which they previously resided in, due to a change in their employment circumstances, They moved in with the Applicant's parents but this has not worked out, and they now require to move out of their parent's house and into the Property currently occupied by the Respondent. They have no other rental properties. It was submitted that at the time of service of the Notice to Leave, the Respondent stopped paying rent and advised the Applicant that he was saving the rent to find another private let. The Applicant offered him assistance with completing a housing application and referred him to the Welfare Fund for advice. It was submitted that the Respondent confirmed that he has made enquiries with the local housing office and been advised that he should remain in the Property until an eviction order is issued. It was submitted that the Respondent is in his early forties, lives alone with no dependants, is in receipt of Universal Credit and works as a takeaway delivery driver. There are no known health issues.
5. The following documents were lodged alongside the application:
 - (i) Copy Private Residential Tenancy Agreement
 - (ii) Copy Notice to Leave
 - (iii) Evidence of service of the Notice to Leave
 - (iv) Section 11 notification to the local authority under the Homelessness etc. (Scotland) Act 2003
 - (v) Signed statement by the Applicant and her husband regarding the requirement to reside in the Property

- Findings in Fact

6. The Tribunal made the following findings in fact:
 - (i) The Applicant is the heritable proprietor and landlord of the Property;
 - (ii) The Applicant and the Respondent entered into a Private Residential Tenancy Agreement which commenced on 17 March 2019;
 - (iii) The Applicant requires the Property back for their own occupation therein;

- (iv) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 4 of Schedule 3 to the 2016 Act;
- (v) The Respondent has failed to vacate the Property despite service of the Notice to Leave.

- Reasons for Decision

7. Section 51 of the 2016 Act states as follows:

51(1) The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

- (2) The provisions of schedule 3 stating the circumstances in which the Tribunal may find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.*
- (3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.*
- (4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order*

8. Ground 4 of Schedule 3 to the 2016 Act states as follows:

4(1) It is an eviction ground that the landlord intends to live in the let property.

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

(a) the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months, and

(b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.

(3) References to the landlord in this paragraph—

(a) in a case where two or more persons jointly are the landlord under a tenancy, are to be read as referring to any one of them,

(b) in a case where the landlord holds the landlord's interest as a trustee under a trust, are to be read as referring to a person who is a beneficiary under the trust.

(4) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the landlord has that intention.

9. The Tribunal was satisfied that the terms of Ground 4 of Schedule 3 to the 2016 Act had been met, namely that the Applicant intends to occupy the property as their only or principal home for at least three months. The Tribunal was satisfied that a Notice to Leave had been served on the Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act.
 10. The Tribunal was satisfied that it was reasonable in the circumstances to grant the order. The Applicant requires to move out of the property in which they are currently living. The Applicant owns no other properties, having previously sold their family home. The Respondent is a single man with no dependants and has made enquiries regarding alternative housing options and appears to be seeking rehousing by the local authority, and is following their advice of remaining in the Property until an order is granted.
- Decision
11. The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 4 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

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.

Fiona Watson

Legal Member/Chair

Date: 6 October 2025