



**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/25/0984

Re: Property at 4 Royal Avenue, Largs, KA30 9JL (“the Property”)

Parties:

Mr Owen Gorman, 11 Border Avenue, Saltcoats, KA21 5NH (“the Applicant”)

**Ms Johanne Freeland, formerly known as Mrs Johanne Henry, 4 Royal Avenue,
Largs, KA30 9JL (“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 had been met and it would be reasonable to make an eviction order, with execution of the order suspended for a period of two 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 of schedule 3 of the 2016 Act, 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 by teleconference. The Tribunal gave notice of the CMD to the parties in accordance with rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 21 August 2025.

- 3 Both parties were invited to make written representations in advance of the CMD. No written representations were received by the Tribunal.

The CMD

- 4 The CMD took place on 3 October 2025 at 10am by teleconference. The Applicant joined the call. The Respondent was present and represented by Ms Andrea Gibson, an adviser from CHAP.
- 5 The Tribunal had the following documents before it:-
- (i) Form E application form dated 26 February 2025;
 - (ii) Title sheet confirming the Applicant as the registered owner of the property;
 - (iii) Private residential tenancy agreement between the parties;
 - (iv) Notice to leave and proof of delivery to the Respondent by recorded delivery mail together with email from the Respondent acknowledging receipt;
 - (v) Section 11 notice and proof of delivery to North Ayrshire Council; and
 - (vi) Copy letter from Mackenzie Way Estate and Letting Agents confirming instruction to sell the property.
- 6 The Tribunal heard submissions from the parties on the application. The following is a summary of the key elements of the submissions and is not a verbatim account.
- 7 The Applicant confirmed that he sought an eviction order as he intends to sell the property. The property is subject to a mortgage. The mortgage term is due to end in May 2026 and the mortgage will require to be repaid. The only way he can do this is by selling the property. He has around 16 rental properties and is in the process of disposing of his portfolio. He can no longer manage the properties due to ill health.
- 8 Ms Gibson confirmed that the Respondent does not oppose an eviction order, provided execution of the order is delayed for a period of two months. The Respondent is awaiting an offer of social housing and will be considered homeless once the Tribunal makes an eviction order. In view of the current housing crisis, the local authority may need more time to source appropriate accommodation. The Respondent lives with her 17 year old son and 16 year old daughter in the four bedroom property. She and her daughter have various health issues. The Respondent is 46 years old.
- 9 The Applicant confirmed that he would not oppose a two month delay on the execution of the order.
- 10 The Tribunal adjourned the CMD to deliberate, at which point parties left the call, before resuming the discussion and confirming the outcome.

Findings in fact

- 11 The Applicant is the owner and landlord, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement.
- 12 The Applicant has delivered a notice to leave to the Respondent that includes ground 1 of schedule 3 of the 2016 Act.
- 13 The Applicant has sent the local authority a notice under section 11 of the Homelessness etc (Scotland) Act 2003 ("section 11 notice") 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 Respondent vacating. The Applicant has instructed Mackenzie Way Estate and Letting Agents to progress this once vacant possession is obtained.
- 16 The Applicant has a mortgage over the property. The mortgage term is due to expire in May 2026. The Applicant requires to sell the property to repay the mortgage.
- 17 The Applicant has around 16 rental properties. The Applicant is in the process of disposing of his portfolio. The Applicant can no longer manage his rental properties due to ill health.
- 18 The Respondent is 46 years old. The Respondent resides in the property with a 17 year old son and 16 year old daughter. The Respondent and her daughter have health issues.
- 19 The Respondent intends to present as homeless to the local authority. The Respondent is awaiting an offer of social housing.
- 20 The Respondent does not oppose the granting of an 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 oppose the substantive facts of the case and as such there was no contradictory evidence before the Tribunal to counter the documentary evidence and submissions from the Applicant which were clear and consistent.
- 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 Respondent 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, or at least market the property for sale, within three months of the Respondent ceasing to occupy, as evidenced by the correspondence from Mackenzie Way Letting Agents and the Applicant's submissions at the CMD. 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.

25 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 the imminent expiry of his mortgage term but also his plans to remove himself from the private rental sector due to ill health. These were all factors to which the Tribunal gave significant weight.

26 The Tribunal carefully considered the Respondent's circumstances. The Tribunal took into account the fact that both the Respondent and her daughter suffer from health issues. However, whilst the impact of eviction upon the Respondent and her family was a cause for concern, ultimately the Tribunal gave most weight to the fact that she did not oppose the granting of an eviction order, provided the local authority was give more time to source a suitable home for her and her family. The Tribunal was aware that the making of an eviction order would assist her in this regard by prioritising her application for housing. It was also noted that the Applicant did not oppose the proposed two month delay.

27 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, with execution of the order suspended for a period of two months.

- 28 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
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