



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/25/2225

Re: Property at 13 McAdam Way, Dalmelington, KA6 7FD (“the Property”)

Parties:

Mr Andrew Monaghan, 12 Allanbank Road, Larbert, Stirlingshire (“the Applicant”)

Miss Catherine Smith, 13 McAdam Way, Dalmelington, KA6 7FD (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Gerard Darroch (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 until 22 December 2025.

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 15 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 3 September 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 15 October 2025 at 10am by teleconference. Ms Lauren Foot of Rent Locally represented the Applicant. The Respondent also joined the call.
- 5 The Tribunal had the following documents before it:-
- (i) Form E application form dated 23 May 2025;
 - (ii) Title sheet confirming the Applicant as the registered owner of the property;
 - (iii) Excerpt from the landlord register confirming the Applicant's landlord registration;
 - (iv) Private residential tenancy agreement between the parties;
 - (v) Notice to leave and proof of delivery to the Respondent by email
 - (vi) Section 11 notice and proof of delivery to East Ayrshire Council;
 - (vii) Written mandate from the Applicant authorising Rent Locally to represent him in the Tribunal application; and
 - (viii) Terms of engagement from Keller Williams Estate Agent regarding the sale of 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 Ms Foot confirmed that the Applicant sought an eviction order as he intends to sell the property. He has been disposing of his rental portfolio with a view to retirement and this is his only remaining property. The Applicant has instructed a survey and is ready to proceed with the sale once vacant possession is obtained. Ms Foot advised that the Respondent has been an excellent tenant and RentLocally would not have hesitated to rent to her again, however they did not have any suitable properties in their portfolio.
- 8 The Respondent explained that she has purchased a new home but will not receive the keys until 20 December 2025. She has nowhere to go until then. It has taken time for her to find a property in the local area where she works, and where her son attends school.
- 9 Ms Foot confirmed that she did not think the Applicant would have any objection to a delay in the execution of the order to allow the Respondent the opportunity to move into her new home.
- 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 Keller Williams Estate Agents to progress this once vacant possession is obtained. The Applicant has instructed a survey of the property.
- 16 The Applicant is in the process of disposing of his rental properties with a view to retirement. The let property is the Applicant's only remaining property in his portfolio.
- 17 The Respondent resides with her son, who attends the local school. The Respondent is employed in the local area.
- 18 The Respondent has purchased a property. The Respondent will receive the keys for her new home on 20 December 2025.
- 19 The Respondent does not object to the eviction order, provided she is given time to move into her new home.

Reasons for decision

- 20 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.
- 21 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.

22 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.”*

23 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 Keller Williams Estate Agents and the submissions from Ms Foot 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.

24 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 retire from the rental sector. He had already taken steps to sell off his other rental properties and this was the last one remaining. These were all factors to which the Tribunal gave significant weight.

25 The Tribunal also took into account the Respondent's circumstances. The Tribunal noted that she has now purchased her own home and would receive the keys for the property on 20 December 2025. Provided she was given sufficient time to move into her new home, the eviction order would not render herself and her son homeless. This was another factor to which the Tribunal gave significant weight.

26 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 until 22 December 2025.

- 27 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

Legal Member/Chair

Date: 15th of October 2025