



**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/25/1269

Re: Property at 43 Dryden Avenue, Loanhead, EH20 9JT (“the Property”)

Parties:

**Mrs Margaret Lyon, Mr William Lyon, 5 Threipmuir Gardens, Balerno, EH14 7EZ
 (“the Applicant”)**

Miss Jade Baillie, 43 Dryden Avenue, Loanhead, EH20 9JT (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

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 Applicants relied upon ground 1 of schedule 3 of the 2016 Act, stating their intention to sell the property.
- 2 The application was referred to a case management discussion (“CMD”) to take place on 24 September 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 19 August 2025.

- 3 Both parties were invited to make written representations in advance of the CMD. No written representations were received from either party.

The CMD

- 4 The CMD took place on 24 September 2025 at 2pm by teleconference. The Applicants were represented by Mr Correy Webber, Solicitor of Ennova Law. The Respondent did not join the call. Mr Webber confirmed that he had received an email from her prior to the CMD in which she advised that she would not be attending and did not oppose the order. The Tribunal therefore delayed the start time of the CMD for a short period before determining to proceed in the Respondent's absence, noting that she had received proper notice of the CMD under rule 17(2) of the Rules.
- 5 The Tribunal had the following documents before it:-
 - (i) Form E application form and paper apart;
 - (ii) Title sheet confirming the Applicants as the registered owners of the property;
 - (iii) Private residential tenancy agreement between the parties;
 - (iv) Notice to leave and proof of delivery to the Respondent by email;
 - (v) Section 11 notice and proof of delivery to Midlothian Council by email and recorded delivery mail; and
 - (vi) Fee quote from Ennova Estate Agents regarding the sale of the property.
- 6 The Tribunal heard submissions from Mr Webber on the application. The following is a summary of the key elements of the submissions and is not a verbatim account.
- 7 Mr Webber explained that the Applicants had inherited the property. They were siblings. They never had any intention of becoming landlords and did not have any other rental properties. The Respondent was a friend of the family. She had three children. Mr Webber was not certain of their ages but believe the eldest to be approaching their teenage years. The Applicants had wanted to help the Respondent following a relationship breakdown and had rented the property to her in around August 2020. The property was a two bedroom property. It was no longer suitable for the Respondent's family. The Respondent had approached the Applicants to advise that she intended on seeking alternative accommodation. The Applicants had subsequently agreed that they would sell the property and had given the Respondent a notice to leave to that effect. Mr Webber confirmed that the Applicants had instructed the estate agency arm of his firm to sell the property. The Respondent was seeking rehousing with the local authority. The local authority would not assist her until such time as the Tribunal made an eviction order. Mr Webber was not sure of the Respondent's age but believe she may be in her thirties. He did not know if she was in employment. He understood she suffered from anxiety.
- 8 The Tribunal adjourned the CMD to deliberate before resuming the call and confirming the outcome.

Findings in fact

- 9 The Applicants are the owners and landlords, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement.
- 10 On 16 December 2024 the Applicants sent the Respondent a notice to leave by email. The Respondent consented to the use of email for the delivery of notices under the terms of the said tenancy agreement. The notice to leave included ground 1 and stated that an application would not be made to the Tribunal any earlier than 14 March 2025.
- 11 The Applicants have sent Midlothian Council a notice under section 11 of the Homelessness etc (Scotland) Act 2003 ("section 11 notice") at the time of making this application.
- 12 The Applicants are entitled to sell the property. The Applicants inherited the property from family members.
- 13 The Applicants intend to sell the property within three months of the Respondent vacating. The Applicants have instructed Ennova Estate Agents to market and sell the property.
- 14 The Applicants and the Respondent have an amicable relationship. The Applicants let the property to the Respondent following the breakdown of her relationship.
- 15 The Applicants have no other rental properties.
- 16 The property is a two bedroom property. The Respondent has three children. The property can no longer adequately accommodate the Respondent's family.
- 17 The Respondent is seeking rehousing with the local authority. The local authority will not provide accommodation to the Respondent until such time as the Tribunal makes an eviction order.

Reasons for decision

- 18 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 application and as such there was no contradictory evidence before the Tribunal to counter the documentary evidence and submissions from the Applicants.
- 19 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 Applicants have given the Respondent a notice to leave that complies with the requirements of the 2016 Act. The Tribunal was

further satisfied that the Applicants have given the local authority a section 11 notice in accordance with the requirements of section 56 of the 2016 Act.

20 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.”

21 The Tribunal accepted that the Applicants are entitled to sell the property, and intend to do so within three months of the Respondent ceasing to occupy. They had instructed solicitors to progress the sale once vacant possession is secured, as evidenced by the fee quote from Ennova Estate Agents.

22 The Tribunal therefore considered whether it was reasonable to make an eviction order on account of those facts. The Tribunal took into account the Applicants' property rights, which entitled them to dispose of the property as they saw fit. The Tribunal also took into account the fact that they were not professional landlords, and had let the property to the Respondent, a family friend, to assist her following a relationship breakdown. The Respondent had since advised the Applicants that the property was no longer suitable for her family, which had led to the Applicants' decision to sell. These were all factors to which the Tribunal gave significant weight.

23 The Tribunal carefully considered the Respondent's circumstances. The information the Tribunal had in this regard was limited to the submissions from Mr Webber at the CMD, as the Respondent had not sought to participate in the proceedings. The Tribunal therefore accepted that the Respondent had three children, and was seeking a council property to accommodate her family. It was clear that a two bedroom property was no longer appropriate for the Respondent and her three children. Whilst the impact of eviction upon the Respondent's family was a cause for concern, ultimately she had not sought to oppose the application and the Tribunal was aware that an eviction order would assist in progressing her application for council housing. 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.

- 24 The Tribunal did however take account of the fact that there were young children in the property, and that it would be reasonable to allow the local authority further time to find suitable permanent accommodation for the Respondent in order to minimise the extent of any disruption to the family's living arrangements. The Tribunal therefore determined to suspend execution of the order for a period of two months. Mr Webber confirmed that the Applicants would have no objection to this.
- 25 The Tribunal therefore determined that ground 1 had been met and determined to make an eviction order, with execution of the order suspended for a period of two months. 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

24 September 2025

Legal Member/Chair

Date