

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 and Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules)

Ref: FTS/HPC/EV/25/1168

Re: Property at 37 Bishops Park, Inverness, IV3 5SZ (the Property)

Parties:

Mr Craig McKee and Mrs Cindy McKee, Sherwood, Whiteinch Small Holdings, Forres, IV36 3TS (the Applicants)

Firthview Property Management, 25 Inglis Street, Inverness, IV1 1HN (the Applicants' Representative)

Mrs Ruta Klamann and Mr Mateus Klamann, 37 Bishops Park, Inverness, IV3 5SZ (the Respondents)

Tribunal Members:

**Ms Susanne L. M. Tanner K.C. (Legal Member)
Ms Ann Moore (Ordinary Member)**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal):

- (i) was satisfied that Ground 1 in Schedule 3, Part 1 to the 2016 Act was established by the Applicants, in that on the day the tribunal considered the application for an eviction on its merits: the Applicants as registered proprietors intend to sell the let Property for market value, or at least put it up for sale within three months of the Respondents ceasing to occupy it;**
- (ii) was satisfied that it was reasonable to make an eviction order in the circumstances; and**
- (iii) made an order for eviction in terms of Section 51 of the 2016 Act.**

The decision of the tribunal was unanimous.

Statement of Reasons

Procedural Background

1. The Applicants' Representative made an application to the tribunal on 17 March 2025 in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules). The Applicant seeks the Respondent's eviction from the Property under Ground 1 of Schedule 3.
2. The Applicants' Representative provided the following documents with the Application:
 - 2.1. Estate Agent Client Contract Agreement – Tailormade Moves;
 - 2.2. Copy Notice to Leave sent 5 December 2024;
 - 2.3. Registered Email Receipt relating to service of NTL to Ruta Klamann;
 - 2.4. Registered Email Receipt relating to service of NTL to Mateusz Klamann;
 - 2.5. Signed Private Residential tenancy agreement;
 - 2.6. Copy section 11 Notice to the Local Authority;
 - 2.7. Local Authority acknowledgement;
 - 2.8. Title Sheet for the Property;
 - 2.9. Authority to Act – Craig McKee; and
 - 2.10. Authority to Act – Cindy McKee.
3. On 18 March 2025, the tribunal's administration obtained a copy of the Title Sheet for the Property which shows that the Applicants have been the joint registered proprietors since 9 December 2004.
4. The tribunal's administration searched Landlord Registration Scotland which shows that the Applicants are the registered landlords of the Property with Highland local authority and the Applicants' Representative is the agent.
5. The Application was accepted for determination. The tribunal sent letters of notification dated 25 July 2025 to both parties with the date, time and arrangements for joining the Case Management Discussion (CMD) teleconference in relation to the Application on 8 September 2025 at 1000h. The Application paperwork was personally served on the Respondents by Sheriff Officers. The Respondents were told that if they wished to submit written representations these should be sent to the tribunal by 15 August 2025.
6. The Respondents did not submit any written representations.

CMD: 8 September 2025, 1000h, Teleconference

7. Mr Thomas from the Applicants' Representative attended.
8. Mrs Klamann, the First Respondent, attended on behalf of herself and her husband, the Second Respondent.

Submissions by the First Respondent

9. Mrs Klamann said that she and her husband do not oppose the eviction order being made and that they understand what that means. Mrs Klamann is Polish and said that she could understand and participate in the proceedings without an interpreter.
10. They have not yet found a suitable property to move to in the area although they have applied for properties in the mid market sector since they received the Notice to Leave. They have also applied to the local authority but have been told that they do not have sufficient points without an eviction order to be prioritised for a local authority property. Mrs Klamann also wrote to her Member of Parliament but they were unable to assist. It has been difficult and stressful for the Respondents. They have never been in a position like this. They have rented before and have very good references. They have been in the Property for around 5 years. They have one child who is 3.
11. Mr Klamann has a job as a bus driver with Highland Council. Mrs Klamann worked part time and is not working at present after the company she worked for closed as a result of liquidation. They would like to stay in Inverness but it is really hard.

Applicants' Representatives' submissions

12. Mr Thomas said that he wished the tribunal to make an eviction order at the CMD. He stated that Notice to Leave was issued 5 December 2024. That had an expiry date of 2 March 2025. They followed on with the Application submission on 10 March 2025.
13. Mr Thomas indicated understanding and sympathy with Mrs Klamann and the family position with difficulty to secure accommodation.
14. The Applicants reason for wanting to sell the Property is to support their children at University. There have been no concerns during the course of the tenancy at all. In different circumstances the owner would have been pleased to see the tenancy continue. He stated that it is unfortunate that there is not more access to readily available for support from the local authority as they do not appear to accept

applications on receipt of the section 11 notice, or even once a CMD is fixed. He stated that the owners certainly recognise the potential inconvenience to the Respondents but they have got a wish to access the capital. They have additional unwanted financial pressure in mortgage interest and tax liability and other operating costs. At the moment the operating costs are far exceeding the monthly rental figure of £750.00. The rent is £100.00 to £150.00 below market rates. Increases during the tenancy have been limited. Mortgage costs are approximately £650.00 per month. It is a variable rate. There is factoring and repair expenditure of around £200.00 per month and Income tax liability of around £110.00 per month. The continuation of the tenancy represents a burden of around £2000.00 per year.

15. Mr Thomas believes that this is the Applicants only rental property in joint names. There is one other property in a sole name. That is also occupied and in a different area. The Applicant does not have any plans to sell that property.

16. The tribunal adjourned to deliberate, having heard from both parties.

17. The tribunal makes the following findings-in-fact:

- 17.1. The Applicants are the registered proprietors of the Property.
- 17.2. The Applicants wish to sell the Property with vacant possession and realise the proceeds to fund their children's university studies.
- 17.3. The property costs and taxes exceed the monthly rent and there is an annual shortfall of around £2000.00.
- 17.4. There is a private residential tenancy agreement between the Applicants and the Respondents for the Property which began on 19 December 2020.
- 17.5. On 5 December 2024, a Notice to Leave containing ground 1 of Schedule 3 to the 2016 Act was served on the Respondents.
- 17.6. The Applicants have given the Respondents at least 84 days' notice that they require possession.
- 17.7. The Application to the tribunal was made on 17 March 2025.
- 17.8. The Applicants intend to sell the Property on the open market or at least market it for sale within three months of vacant possession.

17.9. The Applicants have instructed a sales agent in respect of sale of the Property with vacant possession once obtained.

17.10. The Respondents reside in the property with one child, aged three.

17.11. The Respondents have taken steps to find alternative housing with the local authority and in the mid market sector but as yet have not obtained alternative housing.

Discussion

18. The order for eviction is sought in terms of Section 51 and paragraph 1 of Schedule 3 to the 2016 Act. The tribunal was satisfied that the requirements of those provisions have been met. The tribunal is satisfied that the Applicants intend to sell the Property or at least put it up for sale within three months of an eviction order being made.

19. In relation to reasonableness, reference is made to the tribunal's findings in fact. The Applicants are running the Property at a monthly loss. The Applicants wish to realise the proceeds of sale to fund their children's University studies. The Application for eviction is not opposed by the Respondents. The Respondents have not yet found an alternative property but intend to contact the local authority and hope that this will increase their priority status for alternative housing.

20. The tribunal was satisfied that it was reasonable to evict the Respondents in the circumstances of the case.

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.

Susanne Tanner KC

8 September 2025

Ms. Susanne L. M. Tanner K.C.
Legal Member/Chair

