



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/25/1694

Re: Property at 19 Drysdale Street, Alloa, FK10 1JL (“the Property”)

Parties:

William Harley, 19 Wordie Road, Stirling, FK7 9BA (“the Applicant”)

Darren Russell, 19 Drysdale Street, Alloa, FK10 1JL (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. This is an application by the Applicant for an eviction order in regard to a Private Residential Tenancy (“PRT”) in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The PRT in question was by the Applicant to the Respondent. It commenced on 3 August 2018.
2. The application was dated 22 April 2025 and lodged with the Tribunal on that date. The application relied upon a Notice to Leave in terms of section 50 of the Private Housing (Tenancies) (Scotland) Act 2016 dated 24 January 2025 and said to be served upon the Respondent by email (in terms of the Tenancy Agreement) on that date. The Notice relied upon Ground 1 of Schedule 3 Part 1 of the 2016 Act, being that “the landlord intends to sell”. In regard to Ground 1, the body of the notice made reference to the Applicant seeking to sell with the Respondent as a sitting tenant but the marketing not being successful, and that he now sought to sell the Property with vacant possession. The Notice to Leave

intimated that an application to the Tribunal would not be made before 21 April 2025.

3. The application papers included evidence of the previous marketing with Let Property (with a sitting tenant) and a brief email from the Applicant confirming his current desire to market, as well as a brief email from his agents, O'Malley Property that they were instructed to market after vacant possession was obtained and some refurbishment work undertaken. Both of those emails were dated 26 May 2025.
4. Evidence of a section 11 notice in terms of the Homelessness Etc. (Scotland) Act 2003 served upon Clackmannanshire Council on 22 April 2025 was included in the application papers.

The Hearing

5. The matter called for a CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 10 October 2025 at 1:00. We were addressed by Karen Rae, office manager, O'Malley Property for the Applicant. There was no appearance for the Respondent.
6. We sought confirmation from the Tribunal's clerk as to any contact from or on behalf of the Respondent but there had been none. The Applicant's agent confirmed that there had been no contact with the Respondent in recent months despite their attempts to contact him, in particular about growing arrears. She said that the last contact was in July 2025, when the Respondent had contacted her seeking papers so he could apply for a change in his benefits. (She believed that this was a transfer of payment from housing benefit by the local authority to Universal Credit through the DWP.) During the call, the Respondent had said that the local authority had been in contact with him on housing options and he was working with them on this. He said that he had already been offered a property in Kinross but had turned that down. In all the circumstances, and having not commenced the CMD until 10:05, we were satisfied to hear the application in the absence of the Respondent. (In any event, neither the Respondent nor anyone on his behalf sought to dial into the CMD call at any time before its conclusion.)
7. We sought further information from the Applicant's agent on the reasons for the intended sale. She explained that the Applicant, in consideration of the financial costs and compliance obligations, no longer wished to be a landlord. The Applicant's agent stated that there were arrears of £2,026.58, and no rent payments had been received since July 2025. Prior to that date regular payments of £341.22 were received direct through housing benefit, and she thought it may be that the complete cessation of payments was related to a transfer of benefits to DWP, with the Respondent possibly now receiving payments himself but not remitting them. Arrears had, however, been accruing since September 2024 when the rent was raised from £370/month to £445/month but without any change in the housing benefit payment of £341.22 (nor any top up payments from the Respondent). The Applicant's agent did not have detailed financial

information about the Applicant's outgoings however but we noted from the Title Sheet that there remained a standard security to a mortgage lender over the Property.

8. The Applicant's agent was not informed of the Applicant having any specific intention for the equity once realised, other than that he wished to realise the equity in the Property and cease being a landlord.
9. In respect of reasonableness, we were provided with the following further information.
 - a. The Property was a one-bedroom top floor flat in the centre of Alloa.
 - b. The Respondent lived alone at the Property.
 - c. The Property is not known to be adapted for the use of the Respondent nor especially suitable for his needs.
 - d. The Respondent is believed to be aged in his early 40s.
 - e. The Respondent is not believed to be employed and has received benefits for the full period of the Tenancy.
 - f. The Applicant has no other rental properties.
10. No motion was made for expenses.

Findings in Fact

11. On 3 August 2018, the Applicant agreed to let the Property to the Respondent under a Private Residential Tenancy ("PRT") agreement ("the Tenancy") with a commencement date of 3 August 2018.
12. On 24 January 2025, the Applicant's agent drafted a Notice to Leave in correct form addressed to the Respondent, providing the Respondent with notice, amongst other matters, that the Applicant wished to sell the Property.
13. The Notice to Leave provided the Respondent with notice that no application would be raised before the Tribunal prior to 21 April 2025.
14. A copy of the Notice to Leave was served on the Respondent by email, in terms of the Tenancy Agreement, on 24 January 2025.
15. The Applicant raised proceedings for an order for eviction with the Tribunal, under Rule 109, relying on Ground 1 of Schedule 3 Part 1 of the 2016 Act, on 22 April 2025.
16. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon Clackmannanshire Council on 22 April 2025.
17. The Applicant previously instructed Let Property to market the Property with the Respondent as a sitting tenant but no acceptable offer was received.
18. The Applicant has instructed O'Malley Property to market the Property once vacant possession has been obtained, and some refurbishment undertaken.

19. The Applicant wishes to sell the Property with vacant possession in early course to raise the equity in the Property.
20. The Applicant further wishes to discontinue acting as landlord of the Property in consideration of the financial cost and compliance obligations.
21. The Applicant has no other rental properties.
22. The Respondent resides at the Property alone.
23. The Respondent has sought assistance from the local authority in regard to being rehoused in social housing.
24. As of 6 November 2025, the Respondent was in over 4.5 months' arrears of rent and had made no payments towards rent since July 2025.
25. On 26 September 2025, a Sheriff Officer acting for the Tribunal intimated the CMD of 6 November upon the Respondent.

Reasons for Decision

26. The application was in terms of rule 109, being an order for eviction under a PRT. We were satisfied on the basis of the application and supporting papers that the Notice to Leave had been competently drafted and served upon the Respondent. In any case, he did not appear nor extend a defence in regard to the validity of the Notice.
27. Ground 1 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:
 - (1) *...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.*
28. The emails from the Applicant and his agent constitute bare evidence under paragraph (3) but this was augmented by the oral submissions as to the intention

to sell. We further noted the evidence of a previous attempt to sell with a sitting tenant. On the basis of the papers and submissions for the Applicant, we agreed that paragraphs (2)(a) and (b) were satisfied. In any event, the Respondent did not appear nor extend a defence challenging the ground for eviction.

29. We therefore considered whether it was reasonable to issue an eviction order under paragraph (2)(c). We accepted the Applicant's reasons for wishing to sell. In the absence of an appearance for the Respondent, we were provided with nothing to counter the Applicant's submissions on reasonableness to evict. In any case, the Applicant's arguments were substantial, especially in regard to the mounting arrears and the lack of any rental payment since July 2025. We were satisfied that it was reasonable to evict at this time.
30. The Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. On the basis of the information held, we are thus satisfied to grant an order for eviction at this time in normal terms.

Decision

31. In all the circumstances, we grant an order against the Respondent for eviction from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 further to ground 1 of Schedule 3 of that Act.

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.

Joel Conn

6 November 2025

Legal Member/Chair

Date