

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 59 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/PR/25/3193

Re: Property at 11 Ogilvie Place, Bridge of Allan, FK9 4TE (“the Property”)

Parties:

Mr Hector MacLeod, Mrs Rongrong MacLeod, 87 Chatten Avenue, Stirling, FK9 5RF (“the Applicant”)

Mr Andrew Taylor, Ms Elizabeth Burtney, PRESENT ADDRESS UNKNOWN (“the Respondents”)

Tribunal Members:

Steven Quither (Legal Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) REFUSES the application for lack of competency.

BACKGROUND

1. This is an application dated 23 and lodged on 24 July, both 2025, for a Wrongful Termination Order (“WTO”) under s59 of the 2016 Act and Rule 110 of the First-Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 arising out of a Short Assured Tenancy between the parties constituted by Missives of Let dated 17 and 18 April, both 2007, in respect of the Property, commencing on 19 June 2007 and at a rent of £750 per month.
2. 2 associated cases under Tribunal references PR/25/2130 and PR/25/2253 were considered by the Tribunal along with this case at the Case Management Discussion (“CMD”) hereinafter referred to.
3. After a request for further information and clarification from the Tribunal dated 14 August was answered by the Applicants by correspondence, also of 14

August, the Tribunal accepted the application by Notice of Acceptance of 27 August and a CMD was duly fixed for 14 November, all 2025.

4. Prior to the CMD, preliminary consideration of the supporting documentation for this application confirmed that, as part of the correspondence referred to in the preceding paragraph, there was available to the Tribunal a report (undated) from Fox Investigations, Glasgow, detailing unsuccessful attempts made by them to trace the Respondents. This led to details of this case being placed on the Tribunal's Service by Advertisement page on 14 October 2025, per Tribunal Certificate of Advertisement produced for the CMD.

CASE MANAGEMENT DISCUSSION on 14 NOVEMBER 2025

5. The CMD took place by teleconference and duly commenced shortly after 10am, with only the Applicants in attendance.
6. Mr MacLeod advised and confirmed, in respect of this application:--

He had received a Notice to Quit based on the Respondents' intention to sell the Property and had vacated the Property on the basis of same.

Subsequently, the Property had been refurbished and re-let, presumably by the Respondents, without any indication it had ever been put up for sale.

The Notice to Quit had been inadvertently destroyed by his wife while he was in hospital under investigation for chest pains which he, as a 74 year old man, suspected had been brought on by worry about moving out of his home (the Property) of a number of years.

He suspected the Respondents were motivated to remove him and his wife from the Property in order that they could obtain a higher rent from new tenants. He estimates that moving out of the Property and finding new accommodation had cost him and his wife in the region of £5000 and understood a WTO was the appropriate method to recover his losses arising out of being misled into vacating the Property.
7. The Tribunal advised Mr MacLeod that a WTO was provided for by s59 of the 2016 Act and that there did not seem to be any similar remedy open to the tenant under a Short Assured Tenancy under the Housing (Scotland) Act 1988 ("the 1988 Act"), which is what appeared to be the basis for the Applicants' lease of the Property. It referred to Adrian Stalker's book "Evictions in Scotland",

(2nd Edition) where, on Page 523, in his discussion and consideration of WTOs being available under the 2016 Act, Mr Stalker concisely and succinctly states:-
“There was no similar provision in the 1988 Act”.

8. In these circumstance, the Tribunal advised Mr MacLeod that it did not consider his application could proceed as presently stated, albeit that he might have an alternative civil action available to him if he considered he had incurred loss as a result of being misled by the Respondents into vacating the Property, which he accepted.

REASONS FOR DECISION

9. The Tribunal was not satisfied that the remedy sought by the Applicants was competently open to them, since they were tenants under a Short Assured Tenancy under the 1988 Act. Accordingly, the application fell to be refused.

DECISION

10. To refuse the application.

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.

SR QUITHER

14 NOVEMBER 2025

Legal Member/Chair

Date