



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/25/0737

Re: Property at 2 Lothar, Kirkwall, Orkney, KW15 1XG (“the Property”)

Parties:

Mrs Lorna M Newton, 5 Dundas Crescent, Kirkwall, Orkney, KW15 1JQ (“the Applicant”)

Mr Graham Logie, 2 Lothar, Kirkwall, Orkney, KW15 1XG (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction should be granted.

Background

1. On 20th February 2025 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the Act”).
2. Lodged with the application were: -
 - i. Copy Notice to Leave dated 23rd October 2024;
 - ii. Copy Recorded Delivery slip and tracking report dated 24th October 2024 to the Respondent serving the Notice to Leave;

- iii. Section 11 Notice and proof of service;
 - iv. Sole Selling Agreement with Allan Properties dated 29th March 2025 confirming instructions to market the property;
 - v. Letter from the Applicant dated 31st March 2025 explaining that there is no written tenancy agreement but the tenancy commenced on 17th February 2018.
3. The Application was served on the Respondent by Sheriff Officers on 11th September 2025.

Case Management Discussion

- 4. The Case Management Discussion ("CMD") took place by teleconference. The Applicant represented herself. There was no attendance by the Respondent or any representative on his behalf.
- 5. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules.
- 6. The Applicant sought an order for eviction in terms of ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. She said that she was intending to sell, or at least market the property for sale, within three months of the Respondent vacating. She said that she was selling because she had been unable to secure finance on the property. She does not own any other rental properties.
- 7. The Applicant said that the property has one bedroom, and that the Respondent lives there alone. He returned to Orkney seven years ago, when he retired. She said that he has been a very good tenant, he has looked after the property, and he has never missed a rent payment.
- 8. The Applicant said that she has spoken to the Respondent very recently. He has been looking at ads for private rented properties, and he has also made applications to the local authority and to a local housing association. They will not offer him anything while he still has somewhere to live.

Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing 17th February 2018;
- b. A Notice To Leave, dated 23rd October 2024, was served timeously and correctly;
- c. A section 11 notice was served on the local authority;
- d. The Application was served on the Respondent by Sheriff Officer on 11th September 2025;
- e. The Applicant intends to sell, or at least market the property for sale, within three months of the Respondent vacating;
- f. The property has one bedroom;
- g. The Respondent lives there alone;

- h. The respondent is retired;
- i. The Respondent is seeking other accommodation.

Reasons for Decision

9. Ground 1 of Schedule 3 of the Act states as follows:

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.

10. The Tribunal is satisfied that a Private Residential Tenancy had been created, despite there being no written agreement, by virtue of section 3 of the Act.
11. The Tribunal is satisfied that the ground of eviction had been met by virtue of the Applicant confirming that she was intending to sell, or at least market the property for sale, within three months of the Respondent vacating.
12. The Tribunal is satisfied that it is reasonable to grant the order for eviction. The applicant is entitled to sell the property and has given her reasons for wishing to do so. The Respondent has no dependents, and he has not opposed the application and did not attend the CMD.

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.

Alison Kelly

Legal Member/Chair

24.10.2025
Date