



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/25/1807

Re: Property at 132 Sommerville Drive, East Kilbride, G75 0LS (“the Property”)

Parties:

Mr Leonard Allen, 14 Turnbull Way, Strathaven, ML10 6UZ (“the Applicant”) per his representative, Mrs. Morag Kenyon of the same address (“the Applicant’s Representative”)

Ms Gemma Scott, 132 Sommerville Drive, East Kilbride, G75 0LS (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory process and the Grounds recovery of possession having been established, it is reasonable to grant the Order sought.

Background

1. By application received on 28 April 2025 (“the Application”), the Applicant applied to the Tribunal for an Order for eviction and possession of the Property based on Ground 1 of Schedule 3 to the 2016 Act.
2. The Application comprised the following:
 - i) copy private residential tenancy agreement between the Parties;
 - ii) copy Notice to Leave in terms of Grounds 1, the landlord intends to sell the Property, of Schedule 3 to the Act together with proof of sending;
 - iii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to South Lanarkshire Council being the relevant local authority and
3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the “CMD”) was fixed for 6 November 2025 at 14,00 by telephone conference. The CMD was intimated to the Parties and, in particular, to the Respondent by Sheriff Officer service on 26 September 2025.

CMD

4. The CMD took place on 6 November 2025 at 14,00 by telephone conference. The Applicant, Mr. Allen, was not present and was represented by his mother, Mrs. Kenyon. Ms. Scott, the Respondent, was present and unrepresented.
5. Mrs. Kenyon for the Applicant confirmed that the Order is sought. She explained that her son’s reasons for selling are that the interest rate on her son’s mortgage on the Property has increased and, along with increases in other costs, it is no longer viable for him to continue as a landlord. Mrs. Kenyon advised the Tribunal that she and her son have kept Ms. Scott fully aware of the financial situation throughout and of the intention to sell.
6. Ms. Scott, the Respondent, stated that she did not formally oppose the Application but, on the advice of the local authority, has remained in the Property until an eviction order is granted. With regard to her personal circumstances, Ms. Scott stated that she lives in the Property with her 11-year-old daughter. She explained that she is disabled and that her daughter is

severely autistic. Ms. Scott agreed with Mrs. Kenyon that she has been kept advised of Mr. Allen's financial circumstances with the Property and his intention to sell. Ms. Scott explained that Mr. Allen has held off marketing the Property because of the effect that the selling process would have on her daughter. Ms. Scott confirmed that she has been in contact with the local authority for advice and assistance on homelessness but they are not able to offer anything until the Order is granted. Ms. Scott agreed with Mrs. Kenyon that a lower floor flat would be more suitable for her and daughter than the Property, which is a third floor flat.

7. On behalf of Mr. Allen, Mrs. Kenyon confirmed that, if an Order is granted, there would be no objection to it being stayed beyond the usual thirty day period.

Findings in Fact

8. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a private residential tenancy of the Property between the Parties;
 - ii) The Applicant has a mortgage secured on the Property in respect of which the interest rate has risen;
 - iii) The rental income for the Property is not sufficient cover the mortgage and other costs related to the Property;
 - iv) The Applicant intends to sell the Property and will instruct selling agents when the Respondent removes from the Property;
 - v) The correct statutory procedures have been carried out;
 - vi) The Respondent is a single person with an 11-year-old daughter.
 - vii) Both the Respondent and her daughter have medical conditions;
 - viii) The Respondent has been in contact with the local authority but has not been able to source alternative accommodation and
 - ix) The Respondent does not formally oppose the Application but has no alternative accommodation in which to reside and so continues to reside in the Property.

Issue for the Tribunal

9. The issue for the Tribunal was to determine whether or not to grant the Order sought. The Ground on which the Application proceeds is Ground 1 which *“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.”*
10. The statutory ground and procedure being established, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal took the view that it had sufficient information to make a decision on reasonableness and so proceeded to determine the Application.

Decision and Reasons for Decision

11. The Tribunal had regard to all the information before it and to its Findings in Fact.
12. The Tribunal then considered if it could be satisfied it is reasonable to issue an eviction Order on account of those facts and on all of the information before it.
13. The Tribunal had regard to the facts that it is no longer financially viable to continue as a landlord of the Property and that he intends to sell the Property. The Tribunal noted that the Respondent does not oppose the Application. The Tribunal had regard to the Respondent's circumstances and took the view that the homelessness legislation provides a safety net for her and her daughter. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction Order.
14. The Tribunal considered that, as the Respondent and her daughter have particular medical needs and as the usual thirty-day period for an Order to come into effect is close to the festive period, in the circumstances it was appropriate to stay the effective date of the Order to 16 January 2026.

15. This decision is 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.

Karen Moore

Legal Member/Chair

6 November 2025

Date