



**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/24/5353

**Re: Property at 3 CHURCH PLACE, COUPAR ANGUS, BLAIRGOWRIE, PH13
9BP (“the Property”)**

Parties:

**EXECUTORS OF ALEXANDER MCALLAN, HODGE SOLICITORS LLP, UNION
BANK BUILDING, CALTON STREET, BLAIRGOWRIE, PH13 9AJ (“the
Applicant”)**

**JUREK (otherwise JERZY) KONDRAKIEWICZ, 3 CHURCH PLACE, COUPAR
ANGUS, BLAIRGOWRIE, PH13 9BP (“the Respondent”)**

Tribunal Members:

Ruth O'Hare (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) are met in this case and it would be reasonable to make an eviction order.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

Background

- 1 This is an application for an eviction order under section 51 of the 2016 Act and rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicants relied upon ground 1 as the ground for possession, stating their intention to sell the property.
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 8 July 2025 at 10am. The Tribunal gave notice of

the CMD to the parties in accordance with rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 15 April 2025.

- 3 Following a request from the Applicants the CMD was postponed and rescheduled for 12 November 2025 at 10am by teleconference. The Tribunal gave notice of the CMD to the parties in accordance with rule 17(2) of the Rules.
- 4 The Tribunal invited both parties to make written representations in advance of the CMD. No written representations were received from either party.

The CMD

- 5 The CMD took place on 12 November 2025 at 10am by teleconference. The Applicants were represented by Mr Kevin Lancaster of Hodge Solicitors LLP. The Respondent did not join the call. Mr Lancaster advised that the Applicants had been in regular contact with the Respondent, but he had not given any indication regarding his position on the application. The Tribunal noted that the Respondent had not provided any explanation for his absence to the Tribunal, nor had he submitted any written representations. Accordingly, having been satisfied that the Respondent had been given proper notice of the CMD, the Tribunal delayed the start time for a short period before determining to proceed.
- 6 The Tribunal had the following documents before it:-
 - (i) Form E application form;
 - (ii) Notice to leave and proof of delivery to the Respondent by recorded delivery mail;
 - (iii) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 and proof of delivery to the local authority by email;
 - (iv) Copy letter from property@hodge confirming receipt of instructions to market and sell the property;
- 7 The Tribunal heard submissions from Mr Lancaster on the application. The following is a summary of the key elements of the submissions and is not a verbatim account.
- 8 Mr Lancaster confirmed that the property had been let to the Respondent by the late Alexander McAllan. Mr McAllan had a rental portfolio of 8 properties which he managed himself. He had since passed away and left his estate to his family. His family did not want to be private landlords. They were disposing of his rental properties. This was the last one remaining. The Respondent was a 64-year-old single male who lived alone and was in employment. The Applicants saw him monthly when collecting the rent in cash. The Respondent had not disclosed his intentions regarding rehousing. The Applicants did not know if he had spoken with the local authority. They had been encouraging him to secure alternative accommodation but did not know what efforts he had made in this regard.

- 9 The Tribunal adjourned the CMD, at which point Mr Lancaster left the call, before resuming the discussion and confirming the outcome.

Findings in fact

- 10 The Applicants are the executors of Alexander McAllan. Alexander McAllan was the owner and landlord of the property, and the Respondent is the tenant. The tenancy commenced after 1 December 2017 and is therefore a private residential tenancy.
- 11 The Applicants have given the Respondent a notice to leave which includes ground 1 of schedule 3 of the 2016 Act.
- 12 The Applicants have given the local authority a section 11 notice as at the date of making this application.
- 13 The Applicants are entitled to sell the property in their capacity as executors of the late Alexander McAllan. The Applicants are in the process of disposing of Alexander McAllan's rental portfolio. This is the last remaining rental property.
- 14 The Applicants intend to sell the property within three months of the Respondent ceasing to occupy the property.
- 15 The Applicants have instructed property@hodge, estate agents, to market and sell the property.
- 16 The Respondent is 64 years of age. The Respondent is employed and lives alone.

Reasons for decision

- 17 The Tribunal was satisfied that it had sufficient information to make relevant findings in fact in order to reach a decision following the CMD in the absence of a hearing under rule 18 of the Rules. The Tribunal did not identify any facts in dispute, or issues to be resolved, that would require a hearing to be fixed and considered that it would be in the interests of both parties for a decision to be made at the CMD.
- 18 Section 52 of the 2016 Act states that "*an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant*". The Tribunal was satisfied based on the documentary evidence before it that the Applicants have given the Respondent a notice to leave that complies with the requirements of the 2016 Act. The Tribunal was further satisfied that the Applicants have given the local authority a section 11 notice in accordance with the requirements of section 56 of the 2016 Act.
- 19 The Tribunal went on to consider the wording of ground 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.”*

- 20 The Tribunal accepted that the Applicants are entitled to sell the property as the executors of the late Alexander McAllan, and intend to do so, or at least market the property for sale, within three months of the Respondent ceasing to occupy. The evidence in this regard was unchallenged by the Respondent. The Tribunal concluded that ground 1 was established on that basis.
- 21 The Tribunal therefore considered whether it was reasonable to make an eviction order on account of those facts, which requires the Tribunal to identify those factors relevant to reasonableness and determine which attract the greatest weight.
- 22 The Tribunal considered the Applicants' property rights as the executors of the property owner, which entitle them to dispose of the property. They were in the process of selling off the late Mr McAllan's rental portfolio and this was the only property remaining. The Tribunal gave significant weight to this as a relevant factor.
- 23 The Tribunal carefully considered the Respondent's circumstances. The Tribunal was limited to the information from Mr Lancaster in this regard. The Respondent had lodged no written representations with the Tribunal despite being given the opportunity to do so. He had not sought to challenge any of the evidence provided by the Applicant. The Tribunal therefore accepted that the Respondent was 64 years old, employed and lived alone. The Tribunal could identify no factors in terms of reasonableness which would weigh against making an eviction order in this case. The Tribunal was also aware that the local authority would have a duty to provide the Respondent with advice and assistance if an eviction order is granted.
- 24 The Tribunal therefore concluded that the balance in terms of reasonableness weighed in favour of making an eviction order.
- 25 The decision of the Tribunal was 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.

Ruth O'Hare

12 November 2025

Legal Member/Chair

Date