

Housing and Property Chamber
First-tier Tribunal for Scotland



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/25/1045

Re: Property at 42 Highfield Avenue, Inverness, IV3 8QS (“the Property”)

Parties:

Mr Benjamin Clokie and Mrs Joanna Clokie, both Lindean, Manse Brae, Gargunnoch, FK8 3BQ (“the Applicants”)

Mrs Anna Hapka and Mr Mariusz Strugala, both 42 Highfield Avenue, Inverness, IV3 8QS (“the Respondents”)

Tribunal Members:

George Clark (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondents.

Background

1. By application dated 4 February 2025 and received by the Tribunal on 11 February 2025, the Applicants sought an Eviction Order against the Respondents under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 1 of Schedule 3 to the 2016 Act, namely that the landlord intends to sell the Property.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, which commenced on 4 August 2019 at a rent of £550 per month, and a Notice to Leave dated 8 August 2024 advising the Respondents that an application to the Tribunal under Ground 1 would not be made before 3 November 2024. The Applicants also provided the Tribunal with copies of a letter of engagement with Peter Murphy & Co, estate agents, Fort William and personal financial information indicating that the monthly mortgage

payments are £602.04, so exceed the amount of the monthly rent. This, they stated, was behind their decision to sell the Property.

3. On 9 October 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 30 October 2025. In an email of 16 October 2025, Inverness Citizens Advice Bureau advised the Tribunal that the Respondents were not actively contesting the Applicants' decision to apply for an Eviction Order and that they would not be attending the Case Management Discussion.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 19 November 2025. The Applicant, Mr Benjamin Clokie, was present. The Respondents were not present or represented.
5. Mr Clokie confirmed the reasons for wishing to sell the Property were as set out in their application. He also advised the Tribunal that, in discussions with them, the Respondents had understood and accepted the reasons for needing to sell.

Reasons for Decision

6. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
7. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies.
8. Ground 1 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the landlord intends to sell the let property and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell and 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 the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts. Ground 1 goes on to state that evidence tending to show that the landlord has that intention includes (for example) a letter of engagement from a solicitor or estate agent concerning the sale, or a recently prepared Home Report.
9. The Tribunal was satisfied from the evidence provided by the Applicants, including the estate agents' letter of engagement, that they intend to sell the Property. Accordingly, the only matter for the Tribunal to decide was whether it would be reasonable to issue an Eviction Order.
10. The Tribunal noted that the Respondents, through Inverness CAB, had confirmed that they are not opposing the application for an Eviction Order and

the Tribunal was satisfied that the Applicants have set out a good reason for their decision to sell the Property, namely that the incoming rent is less than their monthly mortgage payments. Accordingly, having considered carefully all the evidence before it, the Tribunal decided that it would be reasonable to issue an Eviction Order.

11. The Tribunal decided that the Eviction Order should not be enforceable until 12 January 2026, as staff resources at the local authority were likely to be limited over the Festive period. Delaying enforcement would give the Respondents time to access the local authority and any other support agencies that they may require.

12. The Tribunal's decision 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.

G.Clark

19 November 2025

Legal Member/Chair _____

Date