



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/0749

Re: Property at 11 Telford Court, Inverness, IV3 8LN (“the Property”)

Parties:

Kevin Ross, 29 Hilltop Rise, Newthorpe, Nottingham, NG16 2GD (“the Applicant”)

Zbyszko Bukowiecki, 11 Telford Court, Inverness, IV3 8LN (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession should be granted in favour of the Applicant.

Background

1. An application was received from the Applicant’s representative on 19 February 2025 under rule 109 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (‘the 2017 rules’) seeking recovery of the property under Ground 1 (landlord intends to sell) as set out in Schedule 3 of the 2016 Act.
2. Attached to the application form were:
 - (i) Copy private residential tenancy in place between the parties, which commenced on 19 January 2018.
 - (ii) Notice to Leave addressed to the Respondent dated 30 August 2024 citing ground 1, and stating the date before which proceedings could not

be raised to be 25 November 2024, together with proof of sending by email on 30 August 2024.

- (iii) Copy notice under section 11 of the Homelessness etc. (Scotland) Act 2003 addressed to Highland Council, together with proof of sending by email on 18 February 2025.
- (iv) Copy sales agreement between the Applicant and Belvoir Lettings (Moray) Limited dated 7 February 2025 in relation to the property.

3. The application was accepted on 20 March 2025.

The first case management discussion

- 4. A case management discussion (CMD) was scheduled for 16 July 2025.
- 5. An email had been received from the Respondent on 31 May 2025, setting out written representations and requesting a postponement of the CMD because he would be out of the country on that date for scheduled medical treatment. Following a request from the Tribunal for further information, an email was received from the Respondent on 25 June 2025, advising that he was in Spain for medical treatment.
- 6. The Tribunal had written to the Respondent on 10 July 2025 requesting written evidence about this medical treatment, to allow the Tribunal to make a decision on his postponement request. No response was received from the Respondent prior to the CMD. The Tribunal therefore decided to proceed with the CMD.
- 7. A CMD was held by teleconference call on 16 July 2025. Mr Jackson Deane of Bannatyne Kirkwood France Solicitors represented the Applicant. The Respondent was not present or represented on the teleconference call.
- 8. Having heard from Mr Deane, the Tribunal considered that on balance, and bearing in mind the overriding objective, it would be in the interests of justice to postpone the CMD in order to allow the Respondent to attend and put forward his case. The Tribunal also noted that it did not consider that there was sufficient information before it to allow it to make a decision on whether it was reasonable to grant an eviction order in all the circumstances.
- 9. The Tribunal therefore postponed the CMD and issued a direction to both parties, inviting them to make any further written submissions which they wished the Tribunal to consider at the postponed CMD regarding whether it would be reasonable to grant an eviction order in all the circumstances.

10. Notice of the postponed CMD scheduled for 22 October 2025 was served on the Respondent by sheriff officer on behalf of the Tribunal on 10 September 2025.
11. A response to the Tribunal's direction was received from the Applicant's solicitor on 7 October 2025. No response was received from the Respondent prior to the postponed CMD.

The postponed CMD

12. The postponed CMD was held by teleconference call on 22 October 2025. Miss Alexandra Wooley of Bannatyne Kirkwood France Solicitors represented the Applicant.
13. The Respondent was not present or represented on the teleconference call. The Tribunal delayed the start of the CMD by 10 minutes, in case the Respondent had been detained. He did not join the teleconference call, however, and no telephone calls, messages or emails had been received from him.
14. The Tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date and time of a case management discussion had been duly complied with. It therefore proceeded with the CMD in the absence of the Respondent.

Submissions on behalf of the Applicant

15. Miss Wooley asked the Tribunal to grant an eviction order. She confirmed that it remained the Applicant's intention to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it.
16. She referred to her written response to the Tribunal's direction, which explained that the Applicant did not consider that it was financially viable for him to continue to rent out the property. It is his only rental, and has an interest only mortgage for around £84000 secured against it. Given the costs of the mortgage and other monthly property costs, the Applicant is making around £50 per month profit at present, but when his mortgage payments were higher, he made a loss each month. He is concerned that his mortgage payments could increase again. The value of the property has not increased much since the Applicant purchased it 20 years ago. Selling with a sitting tenant would reduce the potential price that the Applicant might receive for the property, as well as reducing the pool of potential buyers.

17. The Applicant is due to retire from his current role with the Royal Air Force in December 2025. He will need to take up a new career, and funds from the sale of the Property will provide him with a financial cushion while he looks for a new role.
18. The Applicant currently resides in Nottingham, having previously lived in Moray. He has found it hard to manage the property from Nottingham due to the distance. The combination of the logistics of managing the property, his work commitments and preparing for civilian life after retirement have been a source of stress. The Applicant no longer wants the burden and responsibility of being a landlord.
19. Miss Wooley said that the Applicant knows very little about the Respondent's circumstances. He believes that the Respondent lives alone. He is unsure as to whether the Respondent is currently in employment. The Respondent is believed to still be living at the property. He continues to pay his rent and has no rent arrears. The Applicant is unaware of any disability which the Respondent may have, but there have been no adaptations made to the property for him. The Applicant knew nothing about the medical treatment which the Respondent had referred to. The Applicant had no knowledge of any attempts which the Respondent may have made to secure social or other housing.
20. The Respondent had known for over a year that the Applicant required possession of the Property. Miss Wooley submitted that the Respondent has had ample time to find alternative accommodation. She also noted that the Respondent had indicated in his email to the Tribunal dated 31 May 2025 that he "[did] not intend to oppose termination of the tenancy in principle". The local authority has a statutory duty to house the Respondent should an eviction order be granted. If the Respondent is reliant upon assistance from the local authority, the grant of an eviction order may benefit his housing application

The Respondent's submissions

21. The only submissions which had been received from the Respondent were contained in his written representations to the Tribunal of 31 May and 25 June 2025.
22. In his submission of 31 May 2025, the Respondent stated: *"Although I do not intend to oppose termination of the tenancy in principle, I respectfully request that the Tribunal takes into account the landlord's persistent failure to comply with their repairing obligations. These ongoing issues have significantly affected my enjoyment and peaceful occupation of the property, and I submit that this neglect should influence the terms and timing of any eviction order granted"*. He requested a postponement of the original CMD while he was abroad undergoing medical treatment *"to enable me to adequately respond and manage my participation"*.

23. The Respondent then went on to describe various repairing standard issues which he considered to be outstanding. He asked the Tribunal to consider issuing a Repairing Standard Enforcement Order. The Tribunal advised him in its response that it was unable to do so, and that he may wish to consider making a separate application to the Tribunal about this.
24. In his email of 25 June 2025, the Respondent said: “ *I want to make it very clear that I fully understand the rules and procedures surrounding my tenancy, and I have no intention of causing any disruption or difficulty when it comes to giving up the tenancy. My only intention in raising concerns with the tribunal was to ensure that the circumstances I have gone through were fully understood and taken into consideration. Throughout my tenancy, I felt that the landlord was not providing the level of care and responsibility that tenants should rightfully expect. It has been a very difficult and stressful period for me, and I only wanted this to be acknowledged in a fair way*”.
25. The Respondent also stated: “*Please also note that I am a recognised disabled person. I receive Adult Disability Payment and have limited capability for work, which is reflected in my Universal Credit claim.*”

Findings in fact

26. The Tribunal made the following findings in fact:

- The Applicant is the sole owner of the property. He is therefore entitled to sell the property.
- The Applicant is the registered landlord for the property.
- There is a private residential tenancy in place between the parties, which commenced on 19 January 2018.
- The Notice to Leave was validly served on the Respondent by email on 30 August 2024.
- The Applicant intends to sell the property or put it up for sale within 3 months of the Respondent ceasing to occupy it.

Reasons for decision

27. The Tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties.

28. The Tribunal considered whether the legal requirements of Ground 1, as set out in Schedule 3 of the 2016 Act (as amended), had been met. Ground 1 states:

Landlord intends to sell

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, and

(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.

29. The Tribunal determined that as the owner of the property, the Applicant is entitled to sell the property.

30. The Tribunal then considered whether the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it. The Tribunal noted that the Applicant had produced a sales agreement with Belvoir Lettings (Moray) Limited dated 7 February 2025 in relation to the property. The Tribunal considers that this is evidence tending to show that the Applicant has the intention set out in sub-paragraph 2(b) of Ground 1.

31. The Respondent had not disputed that the Applicant was entitled to, or intended to, sell the property. Having had regard to the oral evidence of Miss Woolman and the signed sales agreement with Belvoir Lettings (Moray) Limited, the Tribunal determined that the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it.

Reasonableness

32. The Tribunal then considered whether it was reasonable to make an order for recovery of possession. In doing so, it took into account all of the circumstances of the case.
33. The Tribunal noted that the Applicant no longer wishes to be a landlord, and considers that it is no longer financially viable to rent the property, given the costs involved. He has also moved away from the area and finds it difficult to manage the property. He intends to sell the property and to use any money from the sale to live on while he looks for new work and moves on with his life, following his retirement from the RAF. The Tribunal noted that the Applicant does not have any other rental properties, and that there is a sizeable interest-only mortgage over the property.
34. The Tribunal noted that little information was available about the Respondent's circumstances and to what extent, if any, he had made enquiries about alternative accommodation. The Respondent had been aware of the Applicant's intention to sell for some time. It had now been almost 14 months since the Notice to Leave was sent. The Tribunal was aware, however, that the Respondent has been living in the property for almost 8 years and continued to pay his rent. He was facing the loss of his home through no fault of his own.
35. The Respondent had also stated that he is disabled, has limited capacity for work, and is in receipt of benefits. He has provided no further information about this, however. He did not respond to the Tribunal's direction and did not attend the hearing. It appeared from his submissions that, while he had: 1) asked for an opportunity to respond and participate in the proceedings (which had been afforded to him), and 2) indicated that he was unhappy about various issues relation to the property, he did not intend to oppose the eviction application.
36. Having carefully considered all of the evidence and all of the circumstances of the case as set out above, the Tribunal considered that on balance it was reasonable to grant an eviction order. It gave particular weight to the lack of opposition to the application from the Respondent, and the fact that he had been aware of the Applicant's intention to sell the property for a significant length of time.
37. The Tribunal therefore determined that an order for recovery of possession should be granted in favour of the Applicant.

Decision

The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the property.

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.



Legal Member/Chair

22 October 2025

Date