

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/25/1375

Re: Property at 1/27 WESTERN HARBOUR DRIVE, EDINBURGH, EH6 6LR (“the Property”)

Parties:

Ms Gillian Moore, 1 Brochroy Croft, Taynult, Argyll, PH35 1JQ (“the Applicant”)

Ms Marilyn Munro, 1/27 WESTERN HARBOUR DRIVE, EDINBURGH, EH6 6LR (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

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

Introduction

The tribunal had two applications before it. The first application under reference FTS/HPC/EV/25/1375 seeks an eviction order on the ground that the applicant intends to sell the let property. The second application under reference FTS/HPC/EV/25/3891 seeks an eviction order on the ground that the tenant has breached the terms of the tenancy agreement and in particular, has been subletting the property out through Airbnb.

Service of the applications and of the Case Management Discussion (CMD) took place upon the respondent by Sheriff Officers on 9 October 2025.

The CMD took place by teleconference on 18 November 2025 at 10.00 am. The applicant was represented by Miss Lynsey Burr of DJ Alexander. The respondent failed to participate.

Findings and Reasons

The property is 1/27 Western Harbour Drive, Edinburgh EH6 6LR. The applicant is Ms Gillian Moore who is the heritable proprietor of the property and the registered landlord. The respondent is Miss Marilyn Munro who is the tenant. The parties entered into a private residential tenancy in respect of the property which commenced on 24 October 2024. The rent was stipulated at £1,600 per month. The guarantor is Mr Mohamed Shoaira, the respondent's son.

The applicant relies upon both Ground 1 and Ground 11, both within schedule 3 to the 2016 Act. These are eviction grounds, firstly where the landlord intends to sell the let property; and secondly, where the tenant has breached a term of the tenancy agreement.

Ground 1

The notice to leave is dated 17 February 2025 and specifies that an application will not be submitted to the tribunal before 20 March 2025. There is evidence that this was emailed to the respondent on 17 February 2025. The necessary 28-day statutory notice period was provided (the tenancy was in operation for less than 6 months). The applicant has produced a copy of the terms of business and selling quote issued by her marketing agent. The applicant is 79 years of age, and she no longer has any desire to act as a commercial landlord. She wishes to act now and simplify her financial affairs when she still has the mental capacity and physical health to do so herself. She intends to use some of the money raised from the sale of the property to pay school fees for her grandson.

Ground 11

The notice to leave is dated 5 August 2025 and specifies that an application will not be submitted to the tribunal before 5 September 2025. There is evidence that the notice was served upon the respondent on the day it is dated. The required 28-day notice period was given. The applicant has produced a copy of the terms of business and selling quote issued by her marketing agent. The written agreement between the parties prohibits subletting. As evidence of the breach of contract, the applicant has produced a copy of the advertising details for the let property from Airbnb showing a rental price of £1,749.00 for five nights between 25 August 2025 and 30 August 2025. The applicant has produced email communications from the City of Edinburgh Council private rented sector (PRS) enforcement team. The property was visited in early August 2025 and 2 AirBnB guests were found within. The respondent has failed to engage with an interview under caution. It is the local authority's intention to submit a report to the Procurator Fiscal regarding the behaviour complained about at the property under Section 97A of the Antisocial Behaviour Etc (Scotland) Act 2004.

The tribunal was satisfied based on the credible and reliable evidence produced that it is the applicant's genuine intention to sell the let property. The tribunal was also satisfied based on the credible and reliable evidence that the applicant has sublet the property and thus breached the terms of the written tenancy contract. Grounds 1 and 11 are both established.

The tribunal proceeded to consider the issue of reasonableness of the making of an eviction order.

The respondent has not opposed any eviction order being made. She has failed pay rent timeously, allowing large arrears to accrue before the guarantor clearing these. She has unlawfully sublet the property without permission or at least allowed her son to do so. She has failed to engage with the private rented services of the local authority. Little is known about the respondent's personal circumstances.

The respondent is believed to be retired. There is no evidence that she has ever lived in the property. She recently reported to the applicant's agents that she 'had nothing to do with the property'. She has no known dependants and no known disabilities or other vulnerabilities.

Since taking up occupation of the property the locks have been changed and there has been refusal to engage with the applicant's agents, who have been unable to gain access to the property to assess the condition of it or to deal with maintenance issues. The applicant has thus been frustrated in her statutory responsibilities as a landlord.

A Section 11 homelessness notice has been issued to the local authority. The respondent will be provided with alternate accommodation in the event of an eviction order being made against them.

Weighing up the respective circumstances of the parties, the tribunal concluded that it was reasonable to grant an eviction order. The Tribunal cannot grant two eviction orders against the same respondent in respect of the same property. In the circumstances the Tribunal granted the Ground 1 application taking into account all circumstances. including the fact that Ground 11 had also been established. The Ground 11 application was dismissed as being unnecessary.

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.

Richard Mill

Legal Member/Chair:

Date: 18 November 2025