



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”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/EV/25/0677

Re: Property at 17 Esk Bridge, Penicuik, Midlothian, EH26 8QR (“the Property”)

Parties:

Mr Vincent Tierney, 10 Viewfield Road, Bishopbriggs, East Dunbartonshire, G64 2AF (“the Applicant”)

Miss Aina O'Brien, 17 Esk Bridge, Penicuik, Midlothian, EH26 8QR (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

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

Background

1. By application received on 17 February 2025, the Applicant applied to the Tribunal for an order for recovery of possession of the Property in terms of Section 51 of the 2016 Act against the Respondent. The application sought recovery in terms of Ground 1 of Schedule 3 to the 2016 Act (landlord intends to sell). Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, the Notice to Leave/proof of service of same, the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003 and evidence in support of the ground,

namely confirmation that estate agents were instructed in relation to the proposed sale.

2. Following initial procedure, and the submission of further supporting documentation, on 28 April 2025, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. Notification of the application and details of the Case Management Discussion ("CMD") fixed for 27 October was served on the Respondent personally by way of Sheriff Officer on 17 September 2025. In terms of said notification, the Respondent was given an opportunity to lodge written representations. No written representations were lodged by or on behalf of the Respondent prior to the CMD.

Case Management Discussion

4. The Case Management Discussion ("CMD") took place by telephone conference call on 27 October 2025 at 10am. The Applicant's representative, Ms Carolyn Gourlay of Rentlocally was in attendance, as was the Respondent, Ms Aina O'Brien.
5. Following introduction and introductory comments by the Legal Member, including an explanation of the purpose of the CMD, Ms O'Brien was asked to confirm her position in relation to the eviction order sought by the Applicant. She confirmed that she was not opposing the application but that she did not have anywhere else to go and would be homeless. She has applied to Midlothian Council for accommodation for herself and her 16-year old daughter who resides with her. She has been told that this will not be progressed, however, until an eviction order is granted by the Tribunal. She has not been provided with any timescale from the local authority for being provided with alternative accommodation. The Respondent herself is not working and is reliant on Universal Credit, although her ex-husband has been paying the rent for her until now. Ms O'Brien stated that he can no longer afford to do so, so she cannot apply for an alternative private let. She is from Kazakhstan and has no family here, other than her daughter, so her only option is to obtain local authority housing. Her daughter has left school and is not working at the moment, but is intending to find work and apply to college. She is aware that the Applicant requires to sell the Property and had nothing further to add.
6. Ms Gourlay was then asked to provide some further detail regarding the Applicant's circumstances and to comment on the Respondent's position. She stated that the Applicant resides in England and requires to sell the Property for financial reasons. He is working and this is the only property he lets out. He still pays a mortgage over this Property and requires to sell to improve his cashflow. Ms Gourlay confirmed that she was aware of the Respondent's position prior to today and had been told by her why she had been unable to move out.

7. The Tribunal canvassed with parties their position on the Tribunal's discretion to extend the usual timeframe for eviction in such circumstances, where the tenant may require more time to secure alternative housing. Ms Gourlay stated that the Applicant had been wanting to sell for some time and has been waiting since February 2025, when application was made to the Tribunal, to get to this stage and that notice had been served on the Respondent well before that. The Applicant requires to sell as soon as possible so would not wish there to be any extension. Ms O'Brien stated that she felt it would be better for things to move as fast as possible, so would prefer if the Tribunal did not extend the timescale.
8. The Tribunal adjourned to consider the application in private and, on re-convening, advised parties that the Tribunal would grant the eviction order sought, on usual timescales and that the decision would follow in writing as soon as possible. Ms O'Brien confirmed that she was happy for the Tribunal to communicate the decision to her by email and confirmed that her email is the same as stated in the application. She was urged to advise Midlothian Council as soon as possible of the position so that her housing application could be progressed. Parties were thanked for their attendance and the CMD concluded.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is tenant of the Property by virtue of a Private Residential Tenancy which commenced on 25 July 2023.
3. The Applicant intends to sell the Property and to market it for sale as soon as possible and within 3 months of obtaining vacant possession, having already instructed an estate agent in the matter.
4. A Notice to Leave in proper form and giving in excess of the requisite period of notice (84 days) was served on the Respondent by email on 16 August 2024, in accordance with the terms of the tenancy agreement.
5. The date specified in the Notice to Leave as the earliest date the eviction Application could be lodged with the Tribunal was specified as 11 February 2025.
6. The Tribunal Application was submitted on 17 February 2025.
7. The Respondent has remained in occupation.
8. The Applicant is resident in England and wishes to sell the Property for financial reasons, namely to improve his cashflow and is still paying a mortgage in respect of the Property.
9. The Applicant is in employment and does not let out any other properties.

10. The Respondent lives with her 16-year old daughter who has left school and is not working.
11. The Respondent is not working and is reliant on Universal Credit.
12. The Respondent's ex-husband has been paying the Respondent's rental in respect of this Property but can no longer afford to do so.
13. The Respondent cannot afford an alternative private let and has made application to the local authority for social housing.
14. The Respondent does not oppose the application, nor seek any extension on the applicable earliest date for eviction.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation and the additional oral information provided at the CMD on behalf of the Applicant and by the Respondent. Both answered questions from the Tribunal Members at the CMD.
2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the requisite period of notice (84 days) had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the tenancy agreement and the relevant provisions of the 2016 Act. It was noted that the Applicant had, in fact, provided a much longer notice period than had been required.
3. The Tribunal considered that the ground of eviction, that the landlord intends to sell (Ground 1 of Schedule 3 to the 2016 Act, as amended) was satisfied in that all elements of Ground 1 were met and that it was reasonable, having regard to all of the circumstances known to the Tribunal, to grant the eviction order sought.
4. The Tribunal had noted that there was supporting documentation with the application from the Applicant and his estate agent who had been instructed to act in the sale of the Property with a view to it being sold once vacant possession had been obtained. The Tribunal noted the Applicant's personal and financial circumstances, and the reason stated for him requiring to sell the Property, all as narrated above. The Tribunal noted that there was still a mortgage payable in respect of the Property and that the Applicant wished to sell to improve his cashflow and financial position. The Tribunal also noted the Respondent's personal and financial circumstances and that she accepted the Applicant's position and did not oppose the application. It was noted that the Respondent lived with her 16-year old daughter who had already left school, but was still financially dependent on the Respondent and that the Respondent herself was in receipt of Universal Credit. The Tribunal was satisfied that the Respondent had already been in contact with the local authority to make

application for social housing and understood, from her representations, why she considered this her only option. It was also noted that the Respondent had been informed by the local authority that she would not be regarded as homeless until an eviction order had been granted by the Tribunal and that an eviction order was required before her housing application was likely to be progressed any further. In all the circumstances, the Tribunal considered it reasonable to grant the eviction order sought and that neither party wished the Tribunal to extend the usual timeframe for eviction.

5. The Tribunal did not have any material before it to contradict the Applicant's position, nor to indicate that the Respondent wished to oppose the eviction or advance any contrary arguments on her own behalf. The Tribunal accordingly determined that an order for eviction could properly be granted at the CMD as there were no facts in dispute nor any other requirement for an Evidential Hearing.

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.

Nicola Weir

Legal Member/Chair

27 October 2025
Date