



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 (“the Act”)

Chamber Ref: FTS/HPC/EV/25/1866

Re: Property at 29 Victoria Terrace, Markinch, Fife, KY7 6AF (“the Property”)

Parties:

Rollos Trustees Services Ltd as executors of the late John Edwin Cropley and May Catherine Cropley, 67 Crossgate, Cupar, Fife, KY15 5AS (“the Applicant”)

Mr Mark Murdoch, 29 Victoria Terrace, Markinch, Fife, KY7 6AF (“the Respondent”)

Tribunal Members:

Jim Bauld (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. By application dated 30 April 2025 the applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the procedure rules”). On 5 June 2025 the application was accepted by the tribunal and referred for determination by the tribunal.
2. A Case Management Discussion (CMD) was set to take place on 11 November 2025, and appropriate intimation of that hearing was given to all parties.

The Case Management Discussion

3. The Case Management Discussion (CMD) took place on 11 November 2025 via telephone case conference. The applicant was represented by their solicitor, Ms Corbett, Rollos, solicitors, St Andrews. The Respondent did not take part.
4. The tribunal explained the purpose of the CMD, the overriding objective of the tribunal and the powers available to the tribunal to determine matters.
5. The tribunal asked various questions of the applicant's representative with regard to the application.

Summary of initial discussions at CMD

6. The tribunal noted that the eviction was sought under and in terms of ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016
7. That ground is currently in the following terms.

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, .

(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

8. The parties were the landlord and tenant of a tenancy of the property which was a private residential tenancy under and in terms of the 2016 Act.

9. A Notice to Leave had been served on the respondent indicating that the applicant intended to seek an eviction order based on ground 1.
10. The landlord is entitled to sell the property.
11. The applicant's representative indicated that the applicant is acting as the executor in the estates of the late Mr John CropLey and Mrs May Cropley. They require to sell to enable the estates to be fully wound up and funds realised and distributed to beneficiaries. The sale will be effected at market value.
12. Ms Corbett explained that the property is occupied by the respondent . He is a single man and believed to be in full time employment. She was not aware of him having any known health issues or vulnerability issues. He has not been in touch with the applicant to indicate that he is opposed to the eviction order being granted. She confirmed that if the tribunal were minded to delay the enforcement of any eviction order that such delay would not cause significant issues to the applicant.

Findings in fact

13. The Applicant is the executor to the estates of the late Mr John Cropley and Mrs May Cropley who were the registered owners of the property.
14. The Applicant and the Respondent, as respectively the landlord and tenant, entered into a tenancy of the property which commenced on 19 June 2024
15. The tenancy was a private residential tenancy in terms of the Act.
16. The agreed monthly rental was £320.
17. On 21 January 2025 the applicant served upon the tenant a notice to leave as required by the Act. The notice became effective on 18 April 2025. The notice informed the tenant that the landlord wished to seek recovery of possession using the provisions of the Act
18. The applicant is entitled to sell the property and intends to do so. The property will be marketed and sold at market value. Estate agents have been instructed

Discussion and reasons for decision

19. The ground for eviction under which this application was made is the ground contained in paragraph 1 of schedule 3 of the 2016 Act. The ground is that the landlord intends to sell the let property. When the 2016 Act was originally passed, that ground of eviction was mandatory. The tribunal was required by law to grant the eviction order if satisfied that the ground was established.

20. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on this ground can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
21. The only matter to be determined in this application is whether it is reasonable to grant the order.
22. The applicant intends to sell the property at market value, within 3 months of the tenant ceasing to occupy.
23. It is not known whether the respondent has attempted to register with the local council and various local housing associations. It is not known whether he has engaged with the local council's homelessness prevention team.
24. The order for possession was sought by the landlord on a ground specified in the 2016 Act and properly narrated in the notice served upon the tenant.
25. The tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon that ground.
26. The tribunal accepted the unchallenged evidence of the landlord's representative that the applicant intends to sell the property at market value and that an estate agent has been instructed.
27. The ground for eviction was accordingly established.
28. The Tribunal now has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties. This is confirmed by one of the leading English cases, **Cumming v Danson**, ([1942] 2 All ER 653 at 655) in which Lord Greene MR said, in an oft-quoted passage:

"[I]n considering reasonableness ... it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account".

29. In determining whether it is reasonable to grant the order, the tribunal is therefore now required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
30. The tribunal finds that it is reasonable to grant the order.
31. The tribunal accepts that the landlord is entitled to sell the property and wishes to do so. There is no presumption, as a matter of law, in favour of giving primacy to the property rights of the landlord over the occupancy rights of the tenant, or vice versa.
32. The respondent will be able to seek appropriate assistance from the local council. It is likely that he will only be fully assisted in obtaining alternative accommodation when an eviction order is granted and he faces actual homelessness.
33. The tribunal will delay enforcement of the order until 30 January 2026 to give some additional time to the respondent to obtain alternative housing or to seek appropriate advice relating to rehousing
34. The granting of the order may therefore ultimately (and almost counter intuitively) benefit the respondent in his attempts to obtain alternative suitable accommodation
35. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that the final order should be made at the CMD.

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.

J Bauld

24/11/2025

Legal Member/Chair

Date

