



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/25/1608

Re: Property at 10 Tower Road, Johnstone, PA5 0AG (“the Property”)

Parties:

Mr Robert McIntosh, 6 Chalcot Gardens, London, NW3 4YB (“the Applicant”)

Mrs Isabella Pryde, Mr Thomas Pryde, 10 Tower Road, Johnstone, PA5 0AG (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) are met in this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act. In terms of section 51(4) of the Act the order will terminate the private residential tenancy on 30 January 2026.

Background

- 1 This is an application for an eviction order under section 51 of the 2016 Act and rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant relied upon ground 1 as the ground for possession, stating her intention to sell the property.
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 25 November 2025. The Tribunal gave notice of the CMD to the parties in accordance with rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 16 October 2025.

- 3 The Tribunal invited both parties to make written representations in advance of the CMD. No written representations were received from either party.

The CMDs

- 4 The CMD took place by teleconference on 25 November 2025. The Applicant was represented by Mrs Kellie Deans of Emmerson Homes. The Respondents did not join the call.
- 5 Mrs Deans explained that she is in regular contact with the Respondents. They are looking to secure a council house and have been told by the local authority to stay put until an eviction order is granted. The Tribunal noted that the Respondents had chosen not to make any written representations in response to the application, nor had they provided any explanation to the Tribunal as to the reason for their absence at the CMD. The Tribunal was satisfied that they had been given proper notice of the CMD under Rule 17(2) of the Rules. The Tribunal therefore delayed the start time of the CMD for a short period before determining to proceed in their absence.
- 6 The Tribunal had the following documents before it:-
- (i) Form E application form;
 - (ii) Title sheet for the property confirming the Applicant's ownership of the property;
 - (iii) Excerpt from the online landlord register confirming the Applicant's landlord registration;
 - (iv) Private residential tenancy agreement between the parties;
 - (v) Notice to leave and proof of delivery upon the Respondents by recorded delivery mail;
 - (vi) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 ("section 11 notice") and proof of delivery to the local authority by email;
 - (vii) Copy letter from Emmerson Homes to the Applicants confirming instructions to market and sell the property; and
 - (viii) Written mandate from the Applicant authorising Emmerson Homes to act as their representative.
- 7 The Tribunal heard submissions from Mrs Deans on the application. The following is a summary of the key elements of the submissions and is not a verbatim account.
- 8 Mrs Deans advised that the Applicant sought an eviction order. He no longer wants to be a landlord. He is looking to release funds from the property as he approaches retirement. The Respondents have resided in the property since 2018. They have applied to be rehoused by the local authority. The local authority will not provide them with accommodation without an eviction order. The Respondents are both in their 70s. The first Respondent has mobility issues. She will require a ground floor property. There are no dependents in the household. There have been no issues with the tenancy. Mrs Deans advised that the Applicant would have no objection if the Respondents were given additional time to find accommodation given their circumstances.

- 9 The Tribunal adjourned the CMD to deliberate, at which point parties left the call, before resuming the discussion and confirming the outcome.

Findings in fact

- 10 The Applicant is the owner and landlord, and the Respondents are the tenants, of the property in accordance with a private residential tenancy agreement.
- 11 The Applicant has given the Respondents a notice to leave which includes ground 1 of schedule 3 of the 2016 Act.
- 12 The Applicant has given the local authority a section 11 notice as at the date of making this application.
- 13 The Applicant is entitled to sell the property as the registered owner.
- 14 The Applicant intends to sell the property within three months of the Respondents ceasing to occupy the property.
- 15 The Applicant is approaching retirement. The Applicant intends to release funds from the property and remove himself from the private rented sector.
- 16 The Respondents are both in their seventies. The first Respondent suffers from mobility issues.
- 17 The Respondents have applied to be rehoused by the local authority. The local authority will not offer the Respondents accommodation until an eviction order is granted.

Reasons for decision

- 18 The Tribunal was satisfied it had sufficient information to make relevant findings in fact based on the oral submissions and documentary evidence before it. The Respondents had been clearly advised in the CMD notification that the Tribunal could proceed to a decision at the CMD. They had not sought to submit any information to the Tribunal to counter the documentary evidence submitted by the Applicants. The Tribunal was therefore satisfied it could reach a decision in the absence of a hearing until rule 18 of the Rules.
- 19 Section 52 of the 2016 Act states that “*an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant*”. The Tribunal was satisfied based on the documentary evidence before it, and the submissions at the CMD, that the Applicant has given the Respondents a notice to leave that complies with the requirements of the 2016 Act. The Tribunal was further satisfied that the Applicant has given the local authority a section 11 notice in accordance with the requirements of section 56 of the 2016 Act.

20 The Tribunal went on to consider the wording of ground 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.”

21 The Tribunal accepted that the Applicant is entitled to sell the property as the registered owner, and intends to do so, or at least market the property for sale, within three months of the Respondents ceasing to occupy. The Respondents had not sought to challenge the evidence from the Applicant in this regard, which was supported by the letter from Emmerson Homes confirming their instructions to sell on the Applicant's behalf. The Tribunal concluded that paragraphs 2(a) and (b) of ground 1 were established on that basis.

22 The Tribunal therefore considered whether it was reasonable to make an eviction order on account of those facts, which requires the Tribunal to identify those factors relevant to reasonableness and determine which attract the greatest weight.

23 The Tribunal considered the Applicant's property rights which entitle him to dispose of the property. The Tribunal also took into account his reasons for doing so, to remove himself from the private rented sector and release funds as he approaches retirement. These were factors to which the Tribunal gave significant weight.

24 The Tribunal carefully considered the Respondents' circumstances. The Tribunal was limited to the information from Mrs Deans in this regard which the Tribunal found to be clear and consistent given her involvement in managing the tenancy. Whilst the Tribunal had concerns about the Respondents' age and vulnerabilities, ultimately the Tribunal gave most weight to the fact that they did not oppose the application. They were not advancing any defence of reasonableness. The Tribunal could reasonably assume this was because they were seeking a council house, and the eviction order would assist them in that regard by prioritising their application with the local authority. The Tribunal did however consider that it would be reasonable to allow some further time for the local authority to source a suitable home for the Respondents, particularly given their specific need for a ground floor property.

- 25 Having considered those factors relevant to reasonableness, the Tribunal therefore concluded that the balance weighed in favour of making an eviction order in the particular circumstances of this case provided that execution of the order is suspended until 30 January 2026. The decision of the Tribunal 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.

Ruth O'Hare

Legal Member/Chair

Date: 25 November 2025