



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016

Reference number: FTS/HPC/EV/24/5075

Re: Property at 105 Crewe Crescent, Edinburgh, EH5 2JN (“the Property”)

Parties:

Mr Richard Street, residing at 26 Mid Liberton, Edinburgh, EH16 5QT (“the Applicant”)

And

Mr Martin Adaji, residing at 1105 Crewe Crescent, Edinburgh, EH5 2JN (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 3 of part 3 of schedule 3 to the 2016 Act.

Background

1. The Applicant seeks recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the “2016 Act”). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to leave, served on 16 July 2024, together with a notice under s.11 of the Homelessness (Scotland) Act 2003.

2. A Case Management Discussion took place before the Tribunal by telephone conference at 2.00pm on 18 June 2025.

3. The case was continued to an evidential hearing to resolve three questions

(a) Does the Applicant truly intend to refurbish the property?

(b) Is it impracticable for the respondent to continue to occupy the property given the nature of the refurbishment intended by the landlord?

(c) Is it reasonable to issue an eviction order on account of those facts?

4. The evidential hearing took place by telephone conference at 10am of 20 November 2025. The applicant was present and unrepresented. The respondent was represented by Ms S Bennett of CHAI. Both parties answered questions from tribunal members. We then reserved our decision.

5. In advance of the evidential hearing, the applicant made written representations on 12/11/2025 and the respondent's representative made written submissions on 13/11/2025.

Findings in Fact

6. The Tribunal finds the following facts to be admitted or proved:

(a) The Applicant and the Respondent entered into a private residential tenancy Agreement for the Property dated 14/03/2020. The Respondent has occupied the property since 14/04/2013.

(b) The Applicant issued a Notice to Leave dated 8/10/2024. The notice gave a single ground for eviction, stating that the landlord intends to refurbish the property.

(c) The Respondent resides in the property with his child. The Respondent's child attends a local primary school.

(d) The property is a two bedroomed upper villa, with a kitchen, a bathroom, and a living room. A stairway leads from the front door to the central hallway, which provides access to each of the rooms.

(e) The fittings and fixtures within the property are tired and beyond their useful life. The floor coverings, bathroom and kitchen fittings have not been replaced since before 2013. Since at least 2020 there have been several water leaks (probably from the bathroom) which affected the property below. (f) In October

and November 2025, the City of Edinburgh Council contacted the applicant about water damage to the property below. One window in the property definitely needs to be replaced. It is likely that all of the windows in the property will need to be replaced.

(g) The applicant has instructed tradesmen to replace the kitchen and bathroom within the property. The applicant intends to strip the kitchen and bathroom back to the plaster and floorboards before installing a new kitchen and bathroom; to remove and replace all floorcoverings; to repair or replace the electrical installation; to repair and replace the windows, and to re-site the central heating boiler.

(h) The landlord intends to carry out significantly disruptive works to the let property. He is entitled to do so. It is neither practical nor possible for the respondent and his daughter to remain in the property while the intended refurbishment works are carried out. It is realistically likely that the refurbishment works will take several months to complete.

(i) The applicant has four rental properties, each of which is occupied. He has been a landlord for 20 years. The property has been the respondent's home since 2013, but to the applicant the property is an asset which requires maintenance and renovation. The property is in a poor state of repair.

(j) The respondent is employed. He does not have health issues or vulnerabilities. He is a single parent.

(k) It is reasonable to grant an order for repossession of the property.

Reasons for the Decision

7. The first question is whether or not the eviction ground is made out. The applicant relies on ground 3 of schedule 3 to the 2016 Act, which says

(1) It is an eviction ground that the landlord intends to carry out significantly disruptive works to, or in relation to, the let property.

(2) The First-tier Tribunal may find that the eviction ground named by sub-paragraph (1) applies if—

(a) the landlord intends to refurbish the let property (or any premises of which the let property forms part),

(b) the landlord is entitled to do so,

(c) it would be impracticable for the tenant to continue to occupy the property given the nature of the refurbishment intended by the landlord,

and

(d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

8. The applicant produces evidence that he has instructed tradesmen to fit a new kitchen and a new bathroom. The respondent accepts that it is time the property was refurbished. The respondent's representatives written submission dated 13/11/2025 accepts that the property requires decorating and maintenance. We find that the planned work is more extensive and disruptive.

9. The Applicant intends to fully renovate the property. The respondent's argument shifts to saying that the works proposed are comparable to those an owner occupier would carry out while living in their own home.

10. The weight of reliable evidence tells us that the landlord intends to refurbish the let property. It is not disputed that he is entitled to do so. Having listened to the evidence of both parties we find that the landlord intends to strip this property back to the plaster and floorboards. We accept evidence that the significant renovation work will take several months, and will involve disconnecting services so that there will be no water supply of water and, for a significant period, there will no means to prepare meals.

11. The property will not be inhabitable during the renovation works. It is not practical for the respondent and his child to live in the shell of the property.

12. We find that the ground for eviction is made out. The respondent intends to refurbish the property; he is entitled to do so; the nature and extent of refurbishment works would make occupation of the property impossible and impracticable for several months.

13. The remaining question is a question of reasonableness. 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

14. The Tribunal has a duty to consider the whole of the circumstances in which the application is made, anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant.

15. For the respondent, it is argued that removal is detrimental to his family and there has been a lack of maintenance of the property for 13 years - so that the respondent is penalised because the property has fallen into disrepair, and remedying that disrepair now deprives the respondent of his home.

16. In considering reasonableness the tribunal requires to balance the rights of both

parties. The tribunal requires to determine where the balance falls in making its order. The tribunal accepted that granting an order to remove the respondent may have a significant impact on the respondent and his child. It is accepted that the respondent has been in the property for almost 13 years and is generally happy there despite the current poor condition of the property.

17. There is no evidence for vulnerability or impediment which would prevent the respondent from finding alternative accommodation. There is no reliable evidence of reasonable enquiry made into the availability of alternative accommodation. The evidence of the respondent's circumstances are sparse. We know that the respondent is in employment and that he has a young daughter who goes to a local primary school and is nearing the end of primary education.

18. The applicant is in the business of renting property. Each of the properties he owns is an asset. It is beyond dispute that this property is in a poor state of repair. It is a matter of agreement that, apart from the replacement of a kitchen work surface, very little maintenance has been carried out since 2013. On the facts as we find them to be, it is time for the property to be completely refurbished. The respondent produces evidence that he has complained about the condition of the property to the landlord. It is now common ground that significant renovation works are required.

19. It is reasonable to grant the order. The tribunal decided, in balancing the various rights of both parties, that the balance fell in favour of the landlord and that the order for recovery should be granted. In recognising the impact the order will have on the respondent, the tribunal has decided the order should not be enforceable immediately but should be delayed to allow the respondent to seek the assistance of the local authority to find alternative accommodation and to minimise the impact of finding a new home on a school-age child.

20. Accordingly, the tribunal will grant the order for recovery but will indicate that it cannot be enforced before 31 March 2026.

21. The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms Ground 3 of part 3 of schedule 3 to the 2016 Act is established.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 3 of part 3 of schedule 3 to the 2016 Act.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

P Doyle

20 November 2025

Legal Member