



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/25/2452

Re: Property at 12 Burns Road, Glenrothes, Fife, KY6 1EB ("the Property")

Parties:

Mrs Annielle Chan Sewlan Lafong, 3 Colinton Court, Glenrothes, Fife, KY6 3PE ("the Applicant")

Ms Ashley Clark, 12 Burns Road, Glenrothes, Fife, KY6 1EB ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member) and Mary Lyden (Ordinary Member)

Decision

At the Case Management Discussion ("CMD"), which took place by telephone conference on 19 November 2025, the Applicant was not in attendance but was represented by Ms Jemma Forbes of Innes Johnston. The Respondent was also present.

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that -

Background

The Tribunal noted the following background:-

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 29 November 2021.
- iii. The Respondent has been in occupation of the Property since 2012 having occupied the Property under a Short Assured Tenancy prior to the PRT being entered into.
- iv. On 18 February 2025, the Applicant served on the Respondent a Notice to Leave requiring the Respondent remove from the Property by 17 May 2025 on the basis of Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").
- v. The Applicant has served on Fife Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that –

The CMD

At the CMD Ms Forbes for the Applicant made the following submissions:-

- i. The Applicant is seeking an eviction order.
- ii. The Applicant purchased the Property in 2012 as an investment, to generate income and as part of her retirement planning.
- iii. There is no mortgage over the Property.
- iv. The Applicant is 74 years of age.
- v. She had three rental properties. One of the rental properties was sold earlier this year by Ms Forbes' firm. In relation to one of the other properties an eviction order was recently granted by the Tribunal and that property will be put on the market for sale in the New Year. The eviction order was granted on the same basis as the eviction order is sought in this application.
- vi. The Applicant has had good relationships with her tenants, including the Respondent.
- vii. She no longer feels able to continue as a landlord.
- viii. The Applicant has ME and arthritis and some of the funds realised from the sale of the properties will be used to adapt her own home.
- ix. Evidence of the Applicant's intention to sell the Property is the Terms of Business letter issued by Innes Johnston to the Applicant in respect of the Property on 11 February 2025. No Home Report has yet been instructed relative to the sale of the Property. However it would be the Applicant's intention to move forward with the sale if an eviction order is granted today. The Applicant has already met with Ms Forbes' estate agency team relative to the sale of the second property.
- x. There are no rent arrears due by the Respondent.
- xi. In relation to the possible suspension of any eviction order granted, the Applicant has given no instructions to consent to or oppose a period of suspension.

The Respondent made the following submissions in response to questions from the Tribunal:-

- i. The Respondent is not opposing the grant of an eviction order.
- ii. The Respondent did look at obtaining a mortgage to purchase the Property from the Applicant. However she could not raise sufficient finance.
- iii. The Respondent is also unable to raise the necessary funds for a deposit on another property in the private sector.
- iv. The Respondent is on the waiting list for housing from Fife Council. Once an eviction order is granted the Respondent will make contact again with her local Councillor to progress her housing application.
- v. The Respondent has two children aged 12 and 16 years.
- vi. She is employed as a staff nurse.
- vii. The Respondent would like to maintain some normality for her children who have various social activities and therefore she would like to be housed within the general vicinity of the Property.
- viii. The Respondent suffers post-traumatic stress from a previous domestically abusive relationship. Her ex-husband subsequently took his own life.
- ix. The Respondent is liaising with Fife Housing Register regarding all public sector accommodation.
- x. The Applicant has been a fabulous landlord.
- xi. The Respondent has been in limbo for some time as the Council will not progress her housing application until an eviction order is granted.

- xii. The Respondent has no desire to be difficult with the Applicant - she is supportive of the Applicant's position.

The Tribunal adjourned briefly to consider their determination.

Reasons for Decision

There are no factual matters of dispute between the parties. The Respondent confirmed the granting of an eviction order is not opposed.

The application proceeds upon Ground 1 of Schedule 3 of the 2016 Act.

Ground 1 of Schedule 3 of the 2016 Act states:-

- "(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."*

The Applicant is entitled to sell the Property in terms of sub-paragraph 2(a), being the heritable proprietor thereof.

Sub-paragraph 2(b) requires that the Applicant intends to sell the Property for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it. Sub-paragraph 3 gives examples of the evidence that might be produced to show the landlord has the intention described in sub-paragraph 2(b). In this instance the Applicant relies upon Terms of Business of Innes Johnston, Solicitors, Glenrothes dated 11 February 2025 which confirms that the Applicant has instructed Innes Johnston to sell the Property. The Tribunal accepts this document as sufficient to meet the terms of sub-paragraph 2(b).

The Tribunal also requires to be satisfied that it is reasonable to issue an eviction order in terms of sub-paragraph 2(c). The Tribunal took into account the following:-

- i. The Applicant purchased the Property as an investment, to generate income and form part of her retirement plan.
- ii. The Applicant is now 74 years of age, has health issues and no longer feels able to continue as a landlord.
- iii. The Applicant had 3 rental properties. One of those properties has been sold earlier this year. Another property has recently been the subject of eviction proceedings before the Tribunal in which an eviction order has been granted and will be placed on the market for sale in the New Year. The Property is the third rental property to be disposed of.

- iv. Some of the capital realised from the sale of the properties will a be used to fund adaptations required to the Applicant's own home in light of her health conditions.
- v. The Respondent wishes to be settled elsewhere with her family and had been in active discussions with Fife Council regarding alternative accommodation in the locality of the Property. Those arrangements cannot be progressed unless an eviction order is granted.

On that basis the Tribunal considered it reasonable to grant an eviction order in terms of Ground 1 of Schedule 3 of the 2016 Act.

Having reached the decision to grant an eviction order the Tribunal carefully considered whether to delay the execution of the eviction order in terms of Rule 16A(d) of the First-tier Tribunal Housing and Property Chamber Rules of Procedure 2017. The Tribunal concluded that it is reasonable to provide the Respondent with an extended period of time to secure alternative accommodation given that the festive period is only 5 weeks or so away. Accordingly, the Tribunal determined that the order cannot be enforced until 12noon on 31 January 2026.

Decision

The Tribunal grants an eviction order against the Respondent in favour of the Applicant in terms of Section 51 and Ground 1 of Schedule 3 of the 2016 Act suspended to 12noon on 31 January 2026.

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.

Gillian Buchanan



Legal Member/Chair

19 November 2025
Date