



**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/25/0293

Re: Property at 70 Windsor Road, Falkirk, FK1 5EJ (“the Property”)

Parties:

Mr Brian Colborn, Mrs Caroline Colborn, 18 Alex Watters Crescent, Kinnaird Village, Falkirk, FK2 8SW (“the Applicant”)

**Mr William Laidlaw, Ms Michelle Chalmers, 70 Windsor Road, Falkirk, FK1 5EJ;
2/3 Belmont Tower, Eastburn Drive, Falkirk (“the Respondent”)**

Tribunal Members:

Ruth O'Hare (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

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 and it would be reasonable to make an eviction order.

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 18 March 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 Applicants relied upon ground 1 as the ground for possession, stating their intention to sell the property.
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 8 November 2025 at 10am. 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 Respondents by sheriff officers on 13 October 2025.

- 3 The Tribunal invited parties to make written representations in advance of the CMD.
- 4 On 14 October 2025 the Tribunal received an email from the second Respondent stating that she had no interest in the property, having left around two years ago, and she was in full agreement with the eviction order.
- 5 On 23 October 2025 the Tribunal received an email from the housing needs service of Falkirk Council advising that the first Respondent would attend the CMD and would have representation from Mr Stewart Love, a housing needs prevention officer. On 30 October 2025 Falkirk Council submitted a written mandate from the first Respondent authorising Mr Love as his representative.

The CMD

- 6 The CMD took place by teleconference on 18 November 2025. The Applicants joined the call. The first Respondent joined the call and was represented by Mr Love. The second Respondent joined the call.
- 7 The Tribunal had the following documents before it:-
 - (i) Form E application form;
 - (ii) Title sheet confirming the Applicants' ownership of the property;
 - (iii) Excerpt from the online landlord register confirming the Applicants' landlord registration;
 - (iv) Private residential tenancy agreement between the parties;
 - (v) Notice to leave and proof of delivery to the Respondents by email;
 - (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, along with the local authority's acknowledgement;
 - (vii) Email from McEwan Fraser Legal to the Applicants regarding the proposed sale of the property; and
 - (viii) The second Respondent's written representations; and
 - (ix) The first Respondent's written representations.
- 8 The Tribunal heard submissions from parties on the application. The following is a summary of the key elements of the submissions and is not a verbatim account.
- 9 The Applicants are retiring and require to sell the property. They have some financial difficulties and are not in the position they envisaged for their retirement. This is their only rental property. The Applicants are aged 61 and 64. A previous application was rejected by the Tribunal hence why they had submitted this application before the notice to leave expired. Mr Colburn explained that the previous application had been rejected because the second Respondent was not named as a party to the application.

- 10 The first Respondent is actively bidding for housing with the local authority. He has been doing so since May 2024. He has placed quite well on some recent bids but has not yet secured alternative accommodation. Mr Love was unable to give a timescale for this, albeit he was hopeful the first Respondent may have a successful bid in the next few months. If the Tribunal were to make an eviction order, the first Respondent would have to make a homeless application and it would likely take around 12 to 18 months to source him permanent accommodation. He would be placed in temporary accommodation meantime. Mr Love explained that it would be better for the first Respondent to keep bidding for properties. The first Respondent is currently off work and has been in hospital recently. This has impacted on his ability to bid for properties. He is not able to drive. He would like to secure a council tenancy. He does not object to the eviction order. He is 65 years old. He is currently paying to store various belongings as he had started packing up when he received the first notice to leave around 2 years ago. He has no savings left. The first Respondent confirmed that he had placed a bid for a property the day prior to the CMD. He was waiting to hear the outcome. He is due to go back into hospital soon for an operation. Mr Love advised that support could be offered to the first Respondent whilst in hospital to ensure he did not miss out on any properties.
- 11 The second Respondent has not lived in the property for around two years. She does not oppose the eviction order.
- 12 The Tribunal discussed the prospect of a suspension of the execution of the eviction order to provide the first Respondent with further time to secure a council property. The Applicants confirmed that they were sympathetic to the first Respondent's position and would not object if the order was suspended until late March 2026.
- 13 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

- 14 The Applicants are the owners and landlords of the property, and the Respondents are the tenants, in terms of a private residential tenancy.
- 15 The Applicants have given the Respondents a notice to leave which includes ground 1 of schedule 3 of the 2016 Act.
- 16 The Applicants have given the local authority a section 11 notice as at the date of making this application.
- 17 The Applicants are entitled to sell the property.
- 18 The Applicants intend to sell the property within three months of the Respondents ceasing to occupy the property.

- 19 The Applicants have consulted McEwan Fraser Legal with a view to instructing them to market and sell the property on their behalf.
- 20 The Applicants are both retiring. The Applicants require to sell the property to support their retirement planning.
- 21 The second Respondent is no longer occupying the property, having vacated around two years ago.
- 22 The first Respondent is 65 years old. The first Respondent has physical health issues and has been in hospital recently.
- 23 The first Respondent has been bidding for council properties. The first Respondent wishes to secure a council tenancy. The council cannot provide a timescale for this.
- 24 Neither Respondent has any objection to the eviction order.

Reasons for decision

- 25 The Tribunal was satisfied it had sufficient information to make relevant findings in fact to reach a decision on the application based on the oral submissions and documentary evidence before it. The Tribunal did not identify any issues to be resolved or facts in dispute that would require the application to proceed to a hearing as it was clear from the submissions at the CMD that the substantive facts in this case were not in dispute.
- 26 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 that the Applicants have given the Respondents a notice to leave that complies with the requirements of the 2016 Act. The Tribunal was further satisfied that the Applicants have given the local authority a section 11 notice in accordance with the requirements of section 56 of the 2016 Act.
- 27 The Tribunal noted that the application had been made to the Tribunal prior to the expiry of the notice period. However, the Tribunal had regard to the fact that the first notice to leave had been given to the Respondents approximately two years ago, and the Applicants had attempted to make a previous application to the Tribunal that had been rejected due to a legal technicality. The Tribunal also took into account the fact that the Respondents had expressed no objection to the premature lodging of the application. The Tribunal therefore determined it would be reasonable to entertain the application in accordance with section 54(4) of the 2016 Act.
- 28 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.”

- 29 The Tribunal accepted that the Applicants are entitled to sell the property as the registered owners, and intend to do so, or at least market the property for sale, within three months of the Respondents ceasing to occupy. The evidence in this regard was unchallenged by the Respondents. The Tribunal concluded that ground 1 was established on that basis.
- 30 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.
- 31 The Tribunal considered the Applicants' property rights which entitle them to dispose of the property. They are not professional landlords and require to sell the property to support their retirement plans. The Tribunal gave significant weight to this as a relevant factor.
- 32 The Tribunal carefully considered the Respondents' circumstances. The Tribunal took into account the fact that the second Respondent had vacated the property some time ago, therefore there would be no risk to her if an eviction order were granted. The Tribunal also considered the position narrated by the first Respondent at the CMD. Whilst the Tribunal noted his age and health issues, ultimately the first Respondent did not object to the eviction order. He was actively seeking rehousing with the local authority and it appeared that his prospects were good given his recent placing on bids for properties. He had support in place from officers from the local authority to assist him with this process. It appeared that he simply required more time to secure alternative accommodation. The Tribunal therefore concluded that the balance in terms of reasonableness weighed in favour of making an eviction order, provided that suspension of the order be delayed to provide the local authority with further time to source a suitable property for the first Respondent. The Tribunal would expect the local authority to ensure the first Respondent has the necessary support in place to ensure his housing needs are met.
- 33 Accordingly, the Tribunal concluded that the balance in terms of reasonableness weighed in favour of making an eviction order in the particular

circumstances of this case, with execution of the order suspended for a period of four months. It was noted that the Applicants did not object to the suspension.

34 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

18 November 2025

Legal Member/Chair

Date