



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/25/1590

Re: Property at 13 The Oval, Glenboig, ML5 2RZ (“the Property”)

Parties:

Laura Palmer, 4 Yeomanry Drive, Baldoch, SG7 6WA (“the Applicant”)

Samantha Daly, 13 The Oval, Glenboig, ML5 2RZ (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) refused the application for an eviction order.

Background

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondent from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 15 October 2025 informing both parties that a CMD had been assigned for 27 November 2025 at 2pm, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 5 November 2025. No representations were received.

The case management discussion – 27 November 2025

4. The CMD took place by conference call. The Applicant was represented by Miss Evelyn Hunter. The Respondent did not join the call and the discussion proceeded in her absence. The Tribunal explained the purpose of the CMD.
5. The Applicant's representative explained that the Respondent has accrued rent arrears of £6,050 and has not paid rent since January 2025. She is believed to live in the Property with her partner and school aged son. The Respondent is not in employment and is in receipt of benefits.
6. The Applicant's representative confirmed that the parties agreed a short assured tenancy which started on 14 August 2015. Last year, the parties agreed an increase in rent to £550 per month and they entered into a private residential tenancy which started on 14 July 2024. The Tribunal enquired about the validity of the notice to leave, which appears to have been served before the private residential tenancy came into being. The Applicant's representative confirmed that it was served on 25 June 2024 and no subsequent notice to leave was served.
7. The Tribunal adjourned the CMD briefly to enable the members to consider the submissions made. When the CMD was reconvened, the Tribunal explained that the members found that the notice to leave was invalid and therefore could not support the application for an eviction order. The Tribunal explained that at the time the notice was served, the only valid notices which could have been served were under the Housing (Scotland) Act 1988. The Tribunal advised that the application was therefore refused.

Findings in Fact

8. The Applicant is the heritable proprietor and landlord of the Property at 13 The Oval, Glenboig, ML5 2RZ
9. The Respondent is the tenant of the Property.
10. The parties entered into a short assured tenancy which started on 14 August 2015.
11. The parties entered into a private residential tenancy which started on 14 July 2024.
12. The Applicant served Notice to Leave on the Respondent on 24 June 2024, which was before the private residential tenancy had started.
13. The Notice to Leave is invalid.

Reason for Decision

14. The Tribunal was satisfied that it could make relevant findings in fact in order to reach a decision following the CMD, and that to do so would not be contrary to the interests of the parties in this case.
15. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicant relied upon the notice to leave which was served on 25 June 2024. The Applicant's representative confirmed that the Respondent moved into the Property on 14 August 2015 and the parties agreed the terms of a short assured tenancy. The parties agreed an increase in rent and entered into a private residential tenancy which commenced 14 July 2024. Therefore the notice to leave served in terms of section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 was served at a time when a short assured tenancy was in existence. The only notice which would have been valid in June 2024 were notices under the Housing (Scotland) Act 1988.
16. For the reason set out above, the Tribunal found that the notice to leave was invalid and therefore could not support the present application for an eviction order. The Tribunal therefore refused the application.

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.

Nicola Irvine

Legal Member/Chair

27 November 2025

Date