



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/25/2121

Re: Property at 17 Dundas Avenue, North Berwick, EH39 4PS ("the Property")

Parties:

Mrs Carol Wicker, Bramble Cottage, Dirleton, EH39 5EH ("the Applicant")

Ms Jacque Turner, Mr Struan Turner, 17 Dundas Avenue, North Berwick, EH39 4PS; 17 Dundas Avenue, North Berwick, EH39 4PS ("the Respondent")

Tribunal Members:

Gabrielle Miller (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 19th May 2025. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations"). The application was based on ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 15th October 2025, all parties were written to with the date for the Case Management Discussion ("CMD") of 2nd December 2025 at 10am by teleconferencing. The letter also requested all written representations be submitted by 5th November 2025.

3. On 16th October 2025, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 16th October 2025.

The Case Management Discussion

4. A CMD was held on 2nd December 2025 at 10am by teleconferencing. The Applicant was not present but was represented by Mr Stephen Nicolson, Solicitor, Harper McLeod. The Respondent was present and represented herself.
5. Mr Nicolson said that the Applicant is still seeking an order for eviction. She is currently living with her partner but they wish to purchase a new property. To do this they will need to consolidate the value from their properties. The Applicant will need to sell this property. There are no tenancy issues. The Respondent is approximately one month behind with her rent payments but she has been arranging with the Applicant to catch up on that payment. Mr Nicolson said that this was not a factor for the Applicant seeking an order. The Applicant has instructed an estate agent for when she has vacant possession of the Property. She does not want to sell it with a sitting tenant as she will not get the same value as it if it is sold with vacant possession.
6. The Respondent is not opposing the granting of an order. She said that her son left the Property in August this year. She has been registered with her local authority and local housing associations since she received the Notice to Leave. She has been looking at the private rental sector but has not been successful yet. This process has affected her mental health. She is willing to move once she has a new property.
7. The Tribunal discussed with Mr Nicolson regarding superseding the order. He took instructions as the Tribunal adjourned and advised that the Appellant was opposed to it due to the length of time that it has taken to reach the point of an order being granted.
8. The Respondent queried about the notice period. Mr Nicolson said that the Respondent did not need to give a notice period but did need advise when she was leaving. She does not need to remain in the Property until 2nd March 2026 if she has been allocated a property that she can move into before then. She is to inform the Applicant directly.
9. The Tribunal considered that there were no grounds of reasonableness to prevent an order for eviction being granted. The Tribunal did consider it appropriate and reasonable to supersede the extract until 2nd March 2026. This is 2 months after the end of the appeal period.

Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 16th August 2018.

11. The Applicant currently lives with her partner but now intends to move into a new property with her partner. She requires to use the money from the sale of this property to buy a different property with her partner. She only has this property as a rental property.
12. The Respondent is not opposed to the granting of an order. She requires time to find alternative accommodation.
13. There are no issues of reasonableness that prevent an order from being granted.

Decision

14. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant.

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.

Gabrielle Miller

2nd December 2025

Legal Member/Chair

Date