



**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/25/2517

Re: Property at 6 Lennox Road, Haddington, EH41 4AX ("the Property")

Parties:

Miss Rowan Craig, 50 Monkmain Road, Haddington, EH41 4NA ("the Applicant")

Mr Steven Kean, 6 Lennox Road, Haddington, EH41 4AX ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion ("CMD"), which took place by telephone conference on 27 November 2025, the Applicant was in attendance and was represented by Ms Jemma Thorpe of Jackson Boyd Lawyers. The Respondent was neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the First Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

Prior to the CMD the Tribunal had received from the Applicant's representative an email dated 13 November 2025 with an updated rent statement attached.

Background

The Tribunal noted the following background:-

- i. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 5 December 2023.
- ii. On 10 February 2025, the Applicant's Letting Agent served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 8 May 2025.
- iii. The Notice to Leave proceeds upon Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").
- iv. The Applicant has served on East Lothian Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD Ms Thorpe made the following representations with input from the Applicant as required:-

- i. The Respondent is still in occupation of the Property.
- ii. He occupies the Property alone.
- iii. It is not known whether the Respondent is presently working.
- iv. The Respondent was in receipt of financial support towards his rent at some point, perhaps for a month or two. Funds received were not paid over to the Applicant.
- v. The Applicant intended to apply for direct payments but discovered the Respondent's benefits had been cancelled as he got a job.
- vi. The rent arrears are now £9700.
- vii. The Respondent has no known disabilities.
- viii. The Property is a ground floor flat with one bedroom and a box room.
- ix. The Applicant's Letting Agent has tried to contact the Respondent on numerous occasions without success.
- x. There may have been contact from a Housing Officer of the Council directly with the Letting Agent suggesting the Respondent had contacted the Homelessness Team but he stopped responding to them too.
- xi. The Applicant owns no other rental properties.
- xii. The Applicant has a mortgage over the Property.
- xiii. The Property is no longer a viable investment.

The Tribunal noted particularly the terms of the Applicant's affidavit dated 30 May 2025.

Findings in Fact

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Applicant leased the Property to the Respondent in terms of the PRT that commenced on 5 December 2023.
- v. On 10 February 2025, the Applicant's Letting Agent served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 8 May 2025.
- vi. The Notice to Leave proceeds upon Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").
- vii. The Applicant has served on East Lothian Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- viii. The Respondent is still in occupation of the Property.
- ix. He occupies the Property alone.
- xiv. The rent arrears are now £9700.
- xv. The Respondent has no known disabilities.
- xvi. The Property is a ground floor flat with one bedroom and a box room.
- xvii. The Applicant's Letting Agent has tried to contact the Respondent on numerous occasions without success.
- xviii. The Applicant owns no other rental properties.
- xix. The Applicant has a mortgage over the Property.
- xx. The Property is no longer a viable investment.
- xxi. 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.
- xxii. The letter of Anderson Strathern LLP, Haddington dated 2 May 2025 is sufficient to meet the terms of sub-paragraph 2(b) of Ground 1 of Schedule 3 of the 2016 Act.

Reasons for Decision

The First Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant and her representative within the application papers and orally at the CMD was not challenged and was accepted by the Tribunal.

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

Ground 1 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 a letter of Anderson Strathern LLP, Haddington dated 2 May 2025 which has been consulted by the Applicant about a sale of the Property and which has tendered advice on selling the Property with and without vacant possession. 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 considered whether or not it would be reasonable to grant an eviction order and determined that it is reasonable to grant an eviction order.

As a result of significant rent arrears having accrued and there being a mortgage over the Property the Applicant has suffered considerable financial distress. The Property is no longer a viable investment and the Applicant is entitled to sell.

Decision

The Tribunal grants an eviction 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.

Gillian Buchanan

Legal Member/Chair

Date 27 November 2025