



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/25/2009

Re: Property at 29 Hosie Rigg, Edinburgh, EH15 3RX (“the Property”)

Parties:

Mr Mark Grant, 48 Tylers Acre Avenue, Edinburgh, EH12 7JE (“the Applicant”)

Mr Lukasz Papiez and Agnieszka Wrzesinska, both 29 Hosie Rigg, Edinburgh, EH15 3RX (“the Respondents”)

Tribunal Members:

George Clark (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondents.

Background

1. By application dated 12 May 2025, the Applicant sought an Eviction Order against the Respondents under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Ground relied on was Ground 5 of Schedule 3 to the Act, namely that a member of the landlord’s family intends to live in the Property.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 15 February 2021, a Notice to Leave dated 10 February 2025 advising the Respondents that an application to the Tribunal under Ground 5 would not be made before 8 May 2025, and an email to the Applicant from his letting agents, telling him that the Respondents had been advised by the Council not to vacate the property until they have found or have been provided with alternative accommodation. The Applicant also provided a copy of a letter from him to his letting agents of 12 June 2025, stating that the reason the Property is needed is the prohibitive and increasingly high rental cost, and an Affidavit dated 13 June 2025 in which he stated that his daughter, grandson and his daughter’s partner need to take on the Property as soon as possible.

3. On 22 October 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 12 November 2025
4. On 5 November 2025, the Respondents provided written representations through Community Help & Advice Initiative ("CHAI"), Edinburgh. They stated that they were not opposing the issuing of an Eviction Order but would like the Tribunal to delay its enforcement date beyond the usual period. The Respondents have four children, aged 14, 12, 4 and 2. The older children attend a local school and one of the younger children has a neurodivergent condition and is awaiting a referral to the Children and Adolescent Mental Health Service ("CAMHS"). Eviction will cause major disruption to the family, and they would like as much opportunity as possible to secure alternative accommodation and to allow change to be managed with as little upset as possible.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the morning of 11 December 2025. The Applicant was represented by Ms Kirstin Daley of Pure Property Management Edinburgh Limited. The Respondents were represented by Ms Sophie Bennett of CHAI.
6. Ms Daley told the Tribunal that the Applicant very much appreciated the Respondents' situation, but he had been very accommodating. Whilst he did not want to extend the date on which the Eviction Order could be enforced, a delay of a few weeks would be acceptable. Ms Daley confirmed that there are no current rent arrears. She was unaware of the present living arrangements of the Applicant's family members.
7. Ms Bennett told the Tribunal that the Respondents have been seeking alternative accommodation in the private sector and have also been in contact with the Homelessness Officer at City of Edinburgh Council, but they will not be given any rehousing priority until an Eviction Order is issued against them. She emphasised the family situation and indicated that a delay in enforcement until the end of February or middle of March 2026 would assist them.

Reasons for Decision

8. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
9. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies.
10. Ground 5 of Schedule 3 to the 2016 Act provides that it is an eviction ground that a member of the landlord's family intends to live in the let property as their only or

principal home for at least 3 months. A daughter and grandchild fall within the definition of “member of the landlord’s family” set out in Ground 5.

11. The Tribunal was satisfied from the evidence provided that a member of the Applicant’s family intends to live in the Property. Accordingly, the only matter for the Tribunal to decide was whether it would be reasonable to issue an Eviction Order.
12. The Tribunal noted that the Respondents have a large family, including a young child with a neurodivergent condition awaiting a CAMHS referral and that they have two children at a local school. The Applicant had not indicated that his family’s situation was such that it would not be reasonable to extend by a few weeks the earliest date on which an Eviction Order can be enforced. The only apparent impact on them would be that they would have to continue to pay rent for their present accommodation for a few additional weeks. The view of the Tribunal was that this was outweighed by the stated need of the Respondents to have time to prepare their family for a move.
13. Having considered carefully all the evidence before it, the Tribunal decided that it would be reasonable to issue an Eviction Order, but that it should not be enforceable until Friday 27 February 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.

George Clark

Legal Member/Chair

11 December 2025

Date