



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/25/1885

Re: Property at 19 Glenview, Penicuik, EH26 0AY (“the Property”)

Parties:

Scott Bain, 2 Park Terrace, Broxburn, West Lothian, EH52 6BF (“the Applicant”)

Lisa Cooper, 19 Glenview, Penicuik, EH26 0AY (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Nicholas Allan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. This is an application by the Applicant for an eviction order in regard to a Private Residential Tenancy (“PRT”) in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The PRT in question was by the Applicant to the Respondent commencing on 1 July 2013.
2. The application was dated 1 May 2025 and lodged with the Tribunal on that date.
3. The application relied upon a Notice to Leave in terms of section 50 of the Private Housing (Tenancies) (Scotland) Act 2016 dated 3 February 2025 and served upon the Respondent by email on that date in accordance with the Tenancy Agreement. The Notice relied upon Ground 1A of Schedule 3 Part 1 of the 2016 Act, being that the “Landlord intends to sell the Let Property to alleviate financial hardship”. As Ground 1A was no longer applicable at the date of the Notice, it was clear from the application that the Applicant relied on Ground 1 (that the landlord intends to sell) but that the Applicant’s financial hardship was the basis

for the desire to sell. In regard to the ground, the body of the notice restated that financial hardship was the reason for selling and that an email from the Applicant was available detailing this. (We were provided with an email from the Applicant dated 30 January 2025, which we refer to below, though we were not told whether this was the email being referred to in the Notice.) The Notice to Leave intimated that an application to the Tribunal would not be made before 1 May 2025.

4. The application papers included a letter dated 11 June 2025 from Your Move confirming that the Applicant had instructed them to market the Property for sale.
5. Evidence of a section 11 notice in terms of the Homelessness Etc. (Scotland) Act 2003 served upon Midlothian Council on 3 February 2025 was included in the application papers.

The Hearing

6. The matter called for a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 27 November 2025 at 14:00. We were addressed by Jonathan Dobbie, Property Manager, Saltouns Lettings for the Applicant, and by the Respondent personally.
7. In regard to the Applicant, the agent confirmed that eviction was still insisted upon for the reasons detailed within the application. The material evidence of financial hardship was the email from the Applicant of 30 January 2025 to his agent and we noted the following from it:
 - a. The Applicant had intended to retain the Property as an investment for his sons or his own pension planning.
 - b. He had however come to the view that, despite the Respondent paying her rent, he “simply cannot afford to run the house” and felt he was “hemorrhaging (*sic*) money and cannot afford to live”.
 - c. He provided the specific example of having made £239 profit the previous tax year, but had paid tax of £2,998.55 on the rental income. (The specific arithmetic of this was not provided.)
 - d. He said that he had “spent thousands trying to maintain and keep the house in good order” but it had come “at a cost to myself and my wife” and he wished “to be able to breath (*sic*) each month”.The email instructed the Applicant’s agent to attend to the necessary steps in regard to the Tenancy. We noted from our papers that there remained a mortgage security over the Property dating from 2019.
8. The Respondent confirmed that she did not oppose the application but that she wished enough time to obtain assistance to be rehoused, and she did not know how long that would take. She expressly confirmed that she did not take issue with the competency of the Notice to Leave nor the Applicant’s reasons for wishing to sell. She provided the following information which related to reasonableness:
 - a. She had not yet secured another suitable property.

- b. She had moved to the Property in 2023, having previously lived in Loanhead but required to find new accommodation when her then-landlord sought eviction so he could sell. She wished to live closer to Loanhead where her family were based and where her children were in school and nursery.
 - c. She had looked at other private tenancies but could not afford them.
 - d. She had been on a housing waiting list for 8 years without being rehoused.
 - e. She had been told by the local authority that they would not be able to rehouse her until after an order for eviction was granted. She had a meeting set up with the local authority for the day after the CMD.
 - f. She had two children of 4 and 8. The older was in primary school in Loanhead, as that was where she had been living when he started. The younger was now in a nursery attached to that same school. She drove them to school each day, which took 20-30 minutes each way.
 - g. She was in part-time employment as a care assistant.
 - h. The Property was not especially suitable for her for any reason (and due to its distance from Loanhead, it was unsuitable for the children's schooling and her support networks).
9. We appreciated the Respondent's candour and her reasons for not feeling able to express whether she formally sought a suspension of the order for eviction (and, if one was granted, for how long). We clarified with the Respondent that she understood that by extending no defence on reasonableness, then eviction may be granted without any guarantee of what rehousing she may be offered. She confirmed this was understood.
10. In response to this, the Applicant's agent volunteered that any order be suspended for two months, so as to allow time for the local authority to provide assistance on rehousing, and for the festive period to pass. The Respondent confirmed that she thought this would be a reasonable suspension.
11. Parties were agreed upon the following:
- a. There were no rent arrears, nor any other complaint as to the Respondent's conduct as a tenant.
 - b. The Property was a three-bedroom terrace property with a garden.
 - c. The Property was not specially adapted for the needs of anyone in the Respondent's household.
- Along with these express agreements on facts, neither party raised any issue generally with the factual details of the other's submissions.
12. No motion for expenses was made by either party.

Findings in Fact

13. On 13 and 14 June 2023, the Applicant let the Property to the Respondent under a Private Residential Tenancy with commencement on 1 July 2023 ("the Tenancy").

14. On or about 3 February 2025, the Applicant's agent drafted a Notice to Leave in correct form addressed to the Respondent, providing the Respondent with notice, amongst other matters, that the Applicant wished to sell the Property.
15. The Notice to Leave provided the Respondent with notice that no application would be raised before the Tribunal prior to 1 May 2025.
16. A copy of the Notice to Leave was served on the Respondent by email on 3 February 2025 in accordance with the Tenancy Agreement.
17. The Applicant raised proceedings for an order for eviction with the Tribunal, under Rule 109, relying on Ground 1 of Schedule 3 Part 1 of the 2016 Act, on 1 May 2025.
18. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon Midlothian Council on 3 February 2025.
19. On or around 11 June 2025, the Applicant instructed Your Move estate agents to act for him in marketing the Property.
20. The Applicant wishes to sell the Property with vacant possession in early course. He has made a decision to sell the Property and discontinue acting as landlord due to financial considerations, in particular the low net income when compared to the tax paid on the rental income.
21. The Respondent resides with her two children (aged 4 and 8) at the Property.
22. The Respondent's children attend a primary school and nursery in Loanhead, a 20-30 minute drive away from the Property.
23. The Respondent formerly resided in Loanhead and her family and support network is generally in or near Loanhead. She would wish to live near Loanhead if possible.
24. The Respondent has made active attempts to obtain alternative accommodation but has thus far failed to identify a new private tenancy in the local area at a rent she can afford.
25. The Respondent has been on a social housing waiting list for 8 years. She has been advised by the local authority that they will be unable to assist her with rehousing prior to an order for eviction being granted against her.

Reasons for Decision

26. The application was in terms of rule 109, being an order for eviction of a PRT. We were satisfied on the basis of the application and supporting papers that the Notice to Leave had been competently drafted and served upon the Respondent.

27. Ground 1 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:
- (1) *...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.*
28. The letter from Your Move constitutes bare evidence under paragraph (3) but it was augmented by the Applicant's explanations as to why he wished to sell. We thus accept that paragraphs (2)(a) and (b) were satisfied. In any event, the Respondent did not dispute that the material requirements of Ground 1 were satisfied.
29. We therefore considered whether it was reasonable to issue an eviction order under paragraph (2)(c). We accepted the Applicant's reasons for wishing to sell, and these were not disputed by the Respondent. We were obliged to both parties for their candour and the engagement with each other at the CMD on whether an order subject to a suspension should be granted. In light of the submissions, we held that it was reasonable to grant an order for eviction at the CMD, with a two-month suspension.
30. The Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. On the basis of the information held, we are thus satisfied to grant an order for eviction at this time but with the earliest date of eviction suspended until 12 noon on 28 January 2026.

Decision

31. In all the circumstances, we grant an order against the Respondent for eviction from the Property under section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* further to ground 1 of Schedule 3 of that Act, suspended as stated above.

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.

Joel Conn

27 November 2025

Legal Member/Chair

Date