



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51 Private Housing
(Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

Chamber Ref: FTS/HPC/EV/25/2648

Property at Flat 2/L, 21 Hospital Street, Dundee, DD3 8DJ (“the Property”)

Parties:

Ms Jane Callander, 57 Highlands Road, Runcorn, WA7 4PT (“the Applicant”)

**Mr Craig Mulholland, Ms Erica Wallace, Flat 2/L, 21 Hospital Street, Dundee,
DD3 8DJ; 9 St Peter's Place, 264 High Street, Perth, PH1 5QJ (“the
Respondents”)**

Tribunal Members:

Josephine Bonnar (Legal Member) and Helen Barclay (Ordinary Member)

Decision - in absence of the Respondents

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an eviction order should be granted against the
Respondents in favour of the Applicant.**

Background

1. The Applicant seeks an eviction order in terms of Section 51 and ground 1 of schedule 3 of the 2016 Act. A copy of the application was served on the Respondents, and the parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 7 January 2026 at 2pm. Prior to the CMD, the Applicant lodged rent statements and stated that the Respondents had incurred rent arrears.
2. On 5 January 2026 Mr Mulholland requested a postponement of the CMD. He stated that he was ill with COVID and could not attend. He also stated that he wanted to attend as he had matters to raise. The request was opposed. Mr Mulholland was notified that, unless he provided medical evidence which confirmed that he could not participate in a telephone conference call, the CMD would proceed. No further correspondence was received.

3. The CMD took place on 7 January 2026. The Applicant participated and was represented by Mr Gordon. Neither Respondent participated.

The CMD

4. Mr Gordon and Ms Callander told the Tribunal that Mr Mullholland is still in occupation of the property. Ms Wallace moved out some time ago, when the Respondents separated. Ms Callander said that her mortgage arrangement expired in December 2025, but the lender has extended it to December 2026 because the CMD had not yet taken place and she was not in a position to sell. The property is the only one that she owns. She rents a property in England and wants to buy a home. However, when she approached lenders, she was advised that she would not be offered a mortgage until she has sold the property. She also needs the equity in the property for a deposit. Ms Callander said that her current mortgage payment is £463 per month, more than the monthly rent charge. She did not qualify for a fixed rate following the expiry of her previous mortgage rate in December 2025.
5. In relation to the rent arrears, Mr Gordon referred the Tribunal to rent statements lodged by the Applicant. A number of payments have been missed since March 2025. Some small payments from the DWP were made to the arrears. The current arrears are £3619.99. Mr Mulholland's current employment status is unknown. Ms Callander said that she has had no contact with him since August 2025. He told her that he had been off work with mental health issues. However, it is understood that he then returned to work. He said that he would set up a repayment arrangement but failed to do so. It is also understood that he currently lives at the property alone.

Findings in Fact

6. The Applicant is the owner and landlord of the property.
7. The Respondents are the tenants of the property.
8. The tenancy is a private residential tenancy.
9. The Applicant intends to sell the property.
10. The Applicant served a Notice to leave on the Respondents on 17 February 2025.
11. The First Respondent resides at the property alone. The Second Respondent moved out of the property when the Respondents separated.
12. The Applicant currently lives in rented accommodation in England. She wants to buy a property but cannot afford to do so unless she sells the rented property.

13. The Respondents owe the sum of £3619.99 in unpaid rent.

Reasons for Decision

14. The application was submitted with a Notice to Leave dated 17 February 2025 together with Sheriff Officer certificates of service which establish that it was served on the Respondents on that date. The Notice states that an application to the Tribunal is to be made on ground 1, the landlord intends to sell the let property. The Notice states that the earliest date that an application can be made to the Tribunal is 13 May 2025.

15. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice which was sent to the Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.

16. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."

17. Ground 1 of schedule 3 (as amended) 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."

18. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Applicant intends to sell the property and that part 1 of ground 1 is established.

19. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -

(a) The First Respondent sent a brief email to the Tribunal requesting a postponement of the CMD. The email did not state that the application is opposed, only that the first Respondent had matters to raise. However, he did not participate in the CMD and his position regarding the application is not known.

(b) The Second Respondent did not participate and no longer resides at the property.

(c) The Applicant intends to sell the property as she currently lives in rented accommodation and cannot afford to purchase a home unless she sells the

property.

(d) The Respondents have incurred significant rent arrears and are not currently meeting the monthly rent charge.

(e) The Applicant's monthly mortgage payment exceeds the monthly rent charge for the property.

20. The Tribunal concludes that the Applicant have complied with the requirements of the 2016 Act and that ground 1 has been established. For the reasons outlined in paragraph 19, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

21. The Tribunal determines that an eviction order should be granted against the Respondents.

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.

J.Bonnar

Legal Member

7 January 2026