



**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/25/1975

Re: Property at 94 Woodside Road, Glenrothes, KY7 4DS (“the Property”)

Parties:

**Mr Stuart Hamilton, 57 Main Street, Milton of Balgonie, Glenrothes, KY7 6PX
 (“the Applicant”)**

Ms Ruth Smith, 94 Woodside Road, Glenrothes, KY7 4DS (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Tony Cain (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 had been met and it would be reasonable to make an eviction order with execution of the order suspended for a period of six months.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

Background

- 1 This is an application for an eviction order under section 51 of the 2016 Act and rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant relied upon ground 1 of schedule 3 of the 2016 Act, stating his intention to sell the property.
- 2 The application was referred to a case management discussion (“CMD”) to take place on 15 October 2025 by teleconference. The Tribunal gave notice of the CMD to the parties in accordance with rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 19 September 2025.

- 3 Both parties were invited to make written representations in advance of the CMD. No written representations were received by the Tribunal.

The CMD

- 4 The CMD took place on 15 October 2025 at 2pm by teleconference. The Applicant joined the call. The Respondent joined the call and was accompanied by Ms Karen Golden, a welfare support worker from Fife Council.
- 5 The Tribunal had the following documents before it:-
 - (i) Form E application form dated 7 May 2025;
 - (ii) Title sheet confirming the Applicant as the registered owner of the property;
 - (iii) Excerpt from the landlord register confirming the Applicant's landlord registration;
 - (iv) Private residential tenancy agreement between the parties;
 - (v) Notice to leave and proof of delivery to the Respondent by email and recorded delivery mail;
 - (vi) Section 11 notice and proof of delivery to Fife Council; and
 - (vii) Copy letter from J&G Wilson Law and Property dated 13 June 2025 confirming the Applicant's instructions to market and sale the property.
- 6 The Tribunal heard submissions from the parties on the application. The following is a summary of the key elements of the submissions and is not a verbatim account.
- 7 The Applicant intends to sell the property. He is in the process of selling off his lower quality properties, and this property in particular will require a lot of work in future. The Applicant did not want to pay for the works. He gave an example of repairs being required at some point to the communal roof. It was difficult to get communal repairs organised in this particular block. The Applicant has nine rental properties. He is only disposing of this one. He has considered selling the property with the Respondent in situ but it doesn't suit him. He feels that would be a harder sale and he would receive less value for the property.
- 8 The Respondent does not disagree that the Applicant intends to sell the property. If she is evicted she will be homeless with her son and her animals. She has nowhere to go. She is doing her best to try and find accommodation. She has filled out applications. Ms Golden has been helping her. When she first put in her application to the local authority she was told that no properties were available. She has to get back to the local authority if an eviction order is granted. She has an 18 year old son with severe anxiety and autism. It was very stressful situation. She could not describe the feeling of being threatened with homelessness. Ms Golden confirmed that the Respondent was in the process of being assessed for housing because of her son's additional needs. The Respondent will likely be allocated additional points. There is a huge housing crisis in Fife. The process for allocating housing was extremely challenging. It was just a matter of when something became available. It could take some time.

- 9 In response to questions from the Tribunal, the Respondent stated that she is devastated for her son. He is physically sick with anxiety over the threat of eviction. She had gotten him a dog to try and help him. The Respondent is worried sick. She can't sleep at night. She has her own mental and physical health issues. She has been for a scan and is awaiting that outcome. She is more worried about her son.
- 10 The Tribunal adjourned the CMD to deliberate, at which point parties left the call, before resuming the discussion and confirming the outcome.

Findings in fact

- 11 The Applicant is the owner and landlord, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement.
- 12 The Applicant has delivered a notice to leave to the Respondent that includes ground 1 of schedule 3 of the 2016 Act.
- 13 The Applicant has sent the local authority a notice under section 11 of the Homelessness etc (Scotland) Act 2003 ("section 11 notice") at the time of making this application.
- 14 The Applicant is entitled to sell the property.
- 15 The Applicant intends to sell, or market to sell, the property within three months of the Respondent vacating. The Applicant has instructed J&G Wilson Law and Property to progress this once vacant possession is obtained.
- 16 The Applicant intends to sell the property to avoid future repair and maintenance costs.
- 17 The Respondent resides in the property with her 18 year old son. The Respondent's son has severe anxiety and autism. The Respondent has physical and mental health issues. The Respondent also has a dog.
- 18 The Respondent has applied to the local authority for rehousing. The Respondent has been advised that it may be some time before the local authority can source a suitable property for her and her son.

Reasons for decision

- 19 The Tribunal was satisfied that it had sufficient information to make relevant findings in fact in order to reach a decision following the CMD in the absence of a hearing under rule 18 of the Rules. The Tribunal did not identify any facts in dispute, or issues to be resolved, that would require a hearing to be fixed and considered that it would be in the interests of both parties for a decision to be made at the CMD.

- 20 Section 52 of the 2016 Act states that “*an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant*”. The Tribunal was satisfied based on the documentary evidence before it that the Applicant has given the Respondent a notice to leave that complies with the requirements of the 2016 Act. The Tribunal was further satisfied that the Applicant has given the local authority a section 11 notice in accordance with the requirements of section 56 of the 2016 Act.
- 21 The Tribunal went on to consider the wording of ground 1:-
- “(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.”*
- 22 The Tribunal accepted that the Applicant is entitled to sell the property, and intends to do so, or at least market the property for sale, within three months of the Respondent ceasing to occupy. The Respondent did not dispute this. The Tribunal therefore considered whether it was reasonable to make an eviction order on account of those facts, which requires the Tribunal to identify those factors relevant to reasonableness and determine what weight to apply to them.
- 23 The Tribunal took into account the Applicant’s property rights, which entitle him to dispose of the property if that is his wish. The Tribunal also took into account his reasons for selling the property. He wishes to avoid future repair and maintenance costs, particularly in relation to repairs to the communal roof. The Tribunal noted that he has a portfolio of 9 properties. Whilst he had stated at the CMD that he was selling off his lower quality stock, he had conceded in his submissions that this was the only property he intended to sell at this time.
- 24 The Tribunal carefully considered the Respondent’s circumstances. It took into account the mental health of both the Respondent and her son. The Tribunal had great concerns about the impact of eviction on them both. It was clear that the threat of losing their home was a cause of significant anxiety and stress. The Respondent had been audibly emotional at points during her submissions. The Tribunal noted the ongoing housing crisis in Fife and was aware from its own knowledge that there was a high likelihood that the Respondent may be placed in emergency or temporary accommodation pending an offer of a permanent

home. The Tribunal could reasonably assume this would significantly disrupt her family's living arrangements, particularly in light of her son's autism.

- 25 The Tribunal therefore concluded that it would be reasonable to make an eviction order in this case, but only if sufficient time was allowed for the Respondent to secure a permanent offer of housing with the local authority. The Tribunal considered that the impact of eviction on the Respondent and her son outweighed the Applicant's reasons for seeking repossession of the property in the particular circumstances of this case to such an extent that it would be reasonable for them to be given further time to source a new home.
- 26 Accordingly, having weighed those factors relevant to reasonableness the Tribunal concluded that the balance weighs in favour of making an eviction order in this case, with execution of the order suspended for a period of six months.
- 27 The Tribunal therefore determined that ground 1 had been met and determined to make an eviction order. The decision of the Tribunal was unanimous.

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.

Ruth O'Hare

7 November 2025

Legal Member/Chair

Date