

Housing and Property Chamber
First-tier Tribunal for Scotland



**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**

Chamber Ref: FTS/HPC/EV/25/1928

Re: Property at 61 Whiteshaw Drive, Carluke, ML8 5UL ("the Property")

Parties:

Mr Neil Archibald, 2/1 Burnbrae Park, Edinburgh, EH12 8AN ("the Applicant")

Ms Kymberley Crawford and Mr Josh Graham, 61 Whiteshaw Drive, Carluke, ML8 5UL ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member) and Eileen Shand (Ordinary Member)

Decision

At the Case Management Discussion ("CMD"), which took place by telephone conference on 11 December 2025, the Applicant was not in attendance but was represented by Mr Stanley McKinlay. The Respondents were both present.

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

Background

The Tribunal noted the following background:-

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Applicant leased the Property to the Respondents in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 29 August 2021.
- iii. On 2 February 2025, the Applicant served on the Respondents by email a Notice to Leave in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
- iv. The Applicant has served on South Lanarkshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the outset of the CMD Mr McKinlay for the Applicant confirmed that the Applicant is seeking the grant of an eviction order.

In the absence of any written representations from the Respondents the Tribunal therefore sought to establish their position in the first instance.

The Respondents stated:-

- i. They accept the Applicant is entitled to sell the Property.
- ii. They had spoken to the Applicant earlier this year when he let them know of his plans to sell the Property.
- iii. They have been looking for somewhere else to go.
- iv. They cannot afford rents in the private sector which are astronomical.
- v. As soon as the Applicant had mentioned a sale of the Property the Respondents got in touch with South Lanarkshire Council. The Council's communication has been shocking.
- vi. The Respondents spoke to their local Councillor last month who pushed the Council for them.
- vii. The Respondents heard yesterday that they are now on the priority homelessness list.
- viii. They have always had a really good relationship with the Applicant.
- ix. The First Respondent's father rented the Property for 10 years before them.
- x. The First Respondent is pregnant with the baby due at the end of April 2026.
- xi. They also have a 4 years old child.
- xii. There are no other occupants of the Property and no disabilities affecting the family.
- xiii. The Respondents started their own business last year so are self-employed. The First Respondent also works part-time.
- xiv. The Property has 2 bedrooms and they have asked the Council for a property of similar size.
- xv. They are in receipt of Universal Credit, Child Benefit and the Scottish Child Payment.
- xvi. Their application to the Council also covers housing association accommodation.
- xvii. They want to avoid the homelessness route if possible.
- xviii. The Council will not give any indication as to when accommodation might become available.
- xix. The Council forced the Respondents to contest the eviction application then took them off the housing list.
- xx. They hope the Applicant might let them continue to live in the Property after an eviction order is granted on a week to week basis until Council accommodation is found.

Mr McKinlay for the Applicant made the following additional oral representations:-

- i. The Applicant is fed up with the "red tape" of being a landlord.
- ii. He is not making a profit and he would use the proceeds of sale of the Property to enhance his pension and make improvements to his own home.
- iii. There is a mortgage over the Property.
- iv. The Applicant has no other rental properties.
- v. If an eviction order is granted the Applicant will not put the Respondents out of the Property and will give them time to be allocated a house from the Council.
- vi. The Respondents will not be made homeless.

Findings in Fact

The Tribunal made the following findings in fact –

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Applicant leased the Property to the Respondents in terms of the PRT that commenced on 29 August 2021.
- iii. On 2 February 2025, the Applicant served on the Respondents by email a Notice to Leave in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
- iv. The Applicant has served on South Lanarkshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- v. The Applicant does not wish to continue as a landlord.
- vi. He is not making a profit from the lease of the Property and he would use the proceeds of sale of the Property to enhance his pension and make improvements to his own home.
- vii. There is a mortgage over the Property.
- viii. The Applicant has no other rental properties.
- ix. The Respondents have been looking for somewhere else to live.
- x. The Respondents cannot afford rents in the private sector.
- xi. As soon as the Applicant mentioned a sale of the Property the Respondents got in touch with South Lanarkshire Council.
- xii. The Respondents are now on the priority homelessness list.
- xiii. The First Respondent is pregnant with the baby due at the end of April 2026.
- xiv. The Respondents also have a 4 years old child.
- xv. There are no other occupants of the Property and no disabilities affecting the family.
- xvi. The Respondents started their own business last year so are self-employed. The First Respondent also works part-time.
- xvii. The Respondents are in receipt of Universal Credit, Child Benefit and the Scottish Child Payment.
- xviii. The Council will not give any indication as to when accommodation might become available.
- xix. The correspondence from Independent Estate Sales Ltd dated 30 January 2025 which narrates the basis upon which they would market the Property for sale is sufficient to meet the terms of sub-paragraph 2(b) of Ground 1 of Schedule 3 of the 2016 Act.

Reasons for Decision

There are no material factual matters of dispute between the parties.

The Respondents did not oppose the granting of an eviction order. They have done their best to pursue accommodation in the public sector, rental properties in the private sector being unaffordable. They have recently achieved priority status and await accommodation being allocated to them. The precise timing of that is not known.

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

Ground 1 of Schedule 3 of the 2016 Act 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 correspondence from Independent Estate Sales Ltd dated 30 January 2025 which narrates the basis upon which they would market the Property for sale. 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 took into account the following:-

- i. That the granting of an eviction order is not opposed by the Respondents.
- ii. Indeed the granting of an eviction order is essential to allow their application for public sector accommodation to progress.
- iii. That the granting of an order is in the interests of both the Applicant and the Respondents.
- iv. The Applicant does not wish to continue as a landlord and selling the Property will allow him to repay the mortgage and use the remaining free proceeds to enhance his pension and make improvements to his own home. These are reasonable aspirations.
- v. The First Respondent is pregnant, due in late April 2026 and the Respondents have a 4 year old child too. It is appropriate that they find a settled home as soon as possible.

The Tribunal determined that the granting of an eviction order is therefore reasonable.

Having reached the decision to grant an eviction order the Tribunal carefully considered whether to delay the execution of the eviction order in terms of Rule 16A(d) of the First-tier Tribunal Housing and Property Chamber Rules of Procedure 2017. The Tribunal concluded that it is reasonable to provide the Respondents with an extended period of time to secure alternative accommodation. Accordingly, the Tribunal determined that the order cannot be enforced until 12noon on 13 February 2026.

Decision

Of consent the Tribunal grants an eviction order against the Respondents in favour of the Applicant suspended to 12 noon on 13 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.

Gillian Buchanan

Legal Member/Chair

11 December 2025
Date