



**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/25/3007**

**Re: Property at 3 Elderpark Gardens, Govan, Glasgow, G51 3NX (“the Property”)**

**Parties:**

**Miss Grace Drummond, The Pens The green, Clapham, North Yorkshire, LA2 8EH (“the Applicant”)**

**Mrs Marion McGibbon, 3 Elderpark Gardens, Govan, Glasgow, G51 3NX (“the Respondent”)**

**Tribunal Members:**

**James Bauld (Legal Member) and Ann Moore (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted**

**Background**

1. By application dated 11 July 2025 the applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the procedure rules”). On 1 August 2025 the application was accepted by the tribunal and referred for determination by the tribunal.
2. A Case Management Discussion (CMD) was set to take place on 15 January 2026, and appropriate intimation of that hearing was given to all parties.

## **The Case Management Discussion**

3. The Case Management Discussion (CMD) took place on 15 January 2026 via telephone case conference. The applicant was present and was represented by her solicitor, Mr. Caldwell, Patten and Prentice, solicitors, Greenock.. The Respondent was also present.
4. The tribunal explained the purpose of the CMD, the overriding objective of the tribunal and the powers available to the tribunal to determine matters.
5. The tribunal asked various questions of the applicant's solicitor and the respondent with regard to the application.

## **Summary of initial discussions at CMD**

6. The tribunal noted that the eviction was sought under and in terms of ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016
7. That ground is currently in the following terms.

### ***Landlord intends to sell***

***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***

8. It was not disputed that the parties were the landlord and tenant of a tenancy of the property which was a private residential tenancy under and in terms of the 2016 Act.
9. It was also accepted that a Notice to Leave had been served on the respondent indicating that the applicant intended to seek an eviction order based on ground 1.
10. The respondent accepted that the landlord is entitled to sell the property.
11. Effectively the only issue to be determined by the tribunal was whether it was reasonable to grant the order.
12. The tribunal asked both parties whether they would wish the matter to be remitted to an evidential hearing or whether they would prefer the tribunal to make a decision based on the information contained in the application, the written representations which had been lodged by both parties and the information presented by them at the case management discussion
13. The applicant's solicitor indicated that he would prefer that a decision was made. He indicated that the Applicant wanted to sell the property. She had already deferred doing so. He indicated that he sympathised with the respondent, but it was always the intention that her occupation of the property would have to end at some point.
14. The respondent also indicated that she would prefer that a decision was made. She accepted that she was aware that her occupation of the property would require to end at some point.

## **Findings in fact**

15. The applicant and respondents as respectively the landlord and tenant entered into a tenancy of the property which commenced on 1 February 2023
16. The tenancy was a private residential tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016. ("the Act")
17. The agreed rental was £575 per month.
18. On 24 February 2025 the applicant served upon the tenants a Notice to Leave as required by the Act. The Notice was served by email upon the respondents and became effective on 24 May 2025
19. The notice informed the respondents that the landlord wished to seek recovery of possession using the provisions of the Act.

20. The notice was correctly drafted and gave appropriate periods of notice as required by law.
21. The notice set out a ground contained within schedule 3 of the Act, namely ground 1 that the landlord intended to sell the let property.
22. The applicant is 64 years of age. She is a self-employed accountant. The applicant intends to retire.
23. She relocated to her current address in North Yorkshire in 2022
24. At that time, the applicant owned two properties, namely the subject property of this application and another at 27 Elderpark Gardens. She intended to sell both properties at that time. She has already sold 27 Elderpark Gardens.
25. In December 2022 the respondent's husband died. The respondent and her husband had been the joint tenants of the property at 3 Elderpark Gardens, following the death of her husband the respondent became the sole tenant from 2 February 2023.
26. The applicant now wishes to sell the property at 3 Elderpark Gardens to release funds to be used in her retirement
27. The respondent is 73 years of age. She resides at the property alone. She is retired and her only income is a state pension. She has lived in the property for the last eight years.

### **Discussion and reasons for decision**

28. The ground for eviction under which this application was made is the ground contained in paragraph 1 of schedule 3 of the 2016 Act. The ground is that the landlord intends to sell the let property. When the 2016 Act was originally passed, that ground of eviction was mandatory. The tribunal was required by law to grant the eviction order if satisfied that the ground was established.
29. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on this ground can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
30. The only matter to be determined in this application is whether it is reasonable to grant the order.
31. The applicant intends to sell the property at market value, within 3 months of the tenant ceasing to occupy.
32. The respondent is seeking alternative accommodation. She has registered with some local housing associations. She has not yet approached the local

council's homelessness prevention team. She accepted that the applicant wished to sell the property and agreed that she was entitled to do so.

33. The order for possession was sought by the landlord on a ground specified in the 2016 Act and properly narrated in the notice served upon the tenant.
34. The tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon that ground.
35. The tribunal noted that the applicant's intention to sell the property at market value was not disputed by the respondent. It was noted that an estate agent has been instructed.
36. The ground for eviction was accordingly established.
37. The Tribunal now has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties. This is confirmed by one of the leading English cases, **Cumming v Danson**, ([1942] 2 All ER 653 at 655) in which Lord Greene MR said, in an oft-quoted passage:  
  

***"[I]n considering reasonableness ... it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account".***
38. In determining whether it is reasonable to grant the order, the tribunal is therefore now required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties. There is no presumption, as a matter of law, in favour of giving primacy to the property rights of the landlord over the occupancy rights of the tenant, or vice versa
39. The tribunal finds that it is reasonable to grant the order. The balance in this case favours the applicant.

40. The tribunal accepts that the landlord is entitled to sell the property and wishes to do so. She has planned to do so for a period of years. She now wishes to retire and the sale is necessary to allow her to proceed with those plans.
41. The respondent does not oppose the Order and will be able to seek appropriate assistance from the local council. It is likely that she will only be fully assisted in obtaining alternative accommodation when an eviction order is granted and she faces actual homelessness.
42. The granting of the order may therefore ultimately (and almost counter intuitively) benefit the respondent in her attempts to obtain alternative suitable accommodation.
43. The tribunal will delay enforcement of the order until 22 March 2026 to give some additional time to the respondent to obtain alternative housing or to seek appropriate advice relating to rehousing
44. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that the final order should be made at the CMD.

## **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.**

**Jim Bauld**

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**Legal Member/Chair**

**15 January 2026**

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**Date**