



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 51(1) of the Private Housing  
(Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/25/2766**

**Re: Property at Eskdale, Walls Close, Kirkwall, Orkney, KW15 1DS (“the Property”)**

**Parties:**

**Mr Richard Welch, Logie, Pitcairngreen, Perth, PH1 3LT (“the Applicant”)**

**Mr Aaron Wilkie, Mrs Sophie Wrigley-Wilkie, Eskdale, Walls Close, Kirkwall, Orkney, KW15 1DS (“the Respondent”)**

**Tribunal Members: Yvonne McKenna (Legal Member) and Angus Lamont (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined an Order for Eviction is Granted in favour of the Applicant against the Respondent.**

**Background**

1. By application to the Tribunal dated 25 June 2025, the Applicant sought an eviction order against the Respondent under ground 1 of Schedule 3 of the Private Housing Tenancies (Scotland) Act 2016 (“the 2016 Act”).

2. In support of the application the Applicant submitted the following:-

- (i) Copy Private Residential Tenancy Agreement (PRT) between the parties;
- (ii) Notice to Leave dated 7 January 2025, confirming that proceedings would not be raised any earlier than 4 April 2025 and email to the Respondent with said Notice to Leave of that same date;
- (iii) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 to Orkney Islands Council and proof of delivery by email;
- (iv) Copy e-mail from Lows solicitors and Estate Agents, dated 24 April 2025 confirming they have been engaged by the Applicant to sell the Property as soon as he has vacant possession;

- (v) Excerpt from Single Survey for the Applicant's home dated 25th September 2020
- (vi) Photograph of roof of Applicant's home
- (vii) Copy quote for roof repairs at Applicant's home dated 26th May 2025
- (viii) Copy quote for windows at Applicant's home.
- (vix) Email from Home Service Company dated 23rd June 2025 regarding roof repairs required at the Applicant's home address.

3. The Tribunal was also in receipt of the Title Sheet which confirmed the Applicant to be the registered owner of the property.

4. By Notice of Acceptance of application dated 21 July 2025, a Legal Member with delegated powers from the Chamber President intimated that there were no grounds upon which to reject the application.

5. The application was therefore referred to a Case Management Discussion ('CMD'); to take place on 12 December 2025 by teleconference. Notification of the CMD was given to the parties in accordance with Rule 17(2) of the First-tier Tribunal (Housing and Property Chamber) Rules of Procedure 2017.

6. The first CMD was postponed at the Applicant's request. The CMD was re-scheduled for 2 February 2026 at 2pm.

### **The CMD 2 February 2026**

7. The CMD took place by telephone conference on 2 February 2026 at 2pm. The Applicant was not present. He was represented by Ms Alice Bruce, solicitor Macleod and MacCallum. The Respondent was not present.

8. The Respondent had not lodged any written representations.

9. Ms Bruce said that she had not expected there to be an appearance by the Respondent. On 11 January 2026, she had received an email from the Respondent, Mrs Sophie Wrigley-Wilkie. The Respondent had stated in her e-mail to Ms Bruce that she believed the CMD was taking place on 12 January 2026. She said that she had determined to e-mail the Applicant's solicitor, as the Housing Department and the Citizens Advice Bureau on the island had said that the Respondent did not need to attend the CMD, as they were not contesting the application for eviction.

10. Ms Bruce had e-mailed back to the Respondent, and had advised of today's date for the CMD. She had heard nothing further since then.

11. She invited the Tribunal to grant the order for eviction. She said that the Applicant required to sell the Property in order to release capital regarding the required roof repairs needed at his own house. The current market value for the Property is £150,000. There is no outstanding mortgage. She referred to the documentation she had lodged, and the photograph of the roof at the Applicant's home address, which showed the roof, 'buckling'. His intention is to sell the Property to carry out these works. The cost of the roof repairs in terms of the quotation lodged with the Tribunal amounts to £28,080, including VAT. In addition the Applicant wants to replace some double glazing windows in his home, and has lodged a quotation for

that. He has been quoted £4,238. Finally; he requires a replacement motor vehicle. His current car will be fifteen years old in March 2026. There is recent evidence of corrosion underneath the car. He needs a car to get around as there is only a reduced bus service in his home area.

12. The Applicant is 66 years of age. He is now retired, and being a landlord has been an increasing burden on him, especially in light of the repairs he has required to carry out at the Property in order to maintain it.

13. He has offered to sell the Property to the Respondent, but understands that they are not in a position to buy.

14. The Property is the only property rented out by the Applicant. He has had some health issues himself, including lower back problems. His wife has joint pain in her knees and dizzy spells. They would also like to set money aside for healthcare. The Applicant would like to focus his efforts on supporting his wife, who has suffered with palpitations, low blood pressure and anxiety for several years.

15. The Respondent is a married couple. They are believed both to be working. The Applicant is not aware of any adaptations carried out at the Property regarding any disabilities. The Applicant understands that there are no children resident at the Property. Neither Respondent is understood to have any health issues. They have paid their rent which is up to date.

### **Findings in Fact**

16. The Applicant is the heritable proprietor of the Property.

17. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 10 January 2020.

18. The rent payable in terms of the PRT is £500 per calendar month.

19. The rent was increased in August 2023, to £550 per calendar month.

20. On 7 January 2025, the Applicant served on the Respondent by email, a Notice to Leave, dated 7 January 2025, requiring the Respondent remove from the Property by 4 April 2025. The Notice to Leave was served on the basis that the Applicant requires to sell the Property.

21. The Applicant has served on Orkney Islands Council, a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

22. The Respondent is still in occupation of the Property.

23. The Applicant has title to sell the Property.

24. The Applicant has instructed Lows solicitors to sell the Property when he has vacant possession.

25. The Applicant intends to conclude the sale of the Property within three months of the Respondent ceasing to occupy.
26. The current market value of the Property is £110, 000.
27. The Applicant has offered to sell the Property to the Respondent.
28. The Respondent has not taken up the offer to buy the Property.
29. The Applicant does not have any outstanding mortgage over the Property.
30. The Applicant requires to sell the Property in order to carry out roof repairs at his home address, and to replace some double glazed windows there.
31. The Applicant wishes to purchase a new car from the net free proceeds of sale.
32. The Respondent has not made any representations to the Tribunal.
33. On 11 January 2026, the Respondent e-mailed the Applicant's solicitor stating they did not intend to oppose the application, and did not intend to appear at the CMD.
34. The Respondent is a married couple who lives at the Property. They are both working and have no health issues.

### **Reasons for Decision**

35. The application before the Tribunal was accompanied by a Notice to Leave which confirmed the Applicant's intention to rely upon ground 1 of Schedule 3 of the 2016 Act. The Notice to Leave was in the prescribed form and had been competently served upon the Respondent. The Tribunal was therefore satisfied that it could entertain the application under section 52(4) of the 2016 Act.

36. The application proceeds upon ground 1 of Schedule 3 of the 2016 Act. *Ground 1 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 subparagraph (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.”*

37. In respect of ground 1, 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 written confirmation from Lows solicitors that they have been engaged to sell the Property. The Tribunal accepts this evidence as sufficient to meet the terms of sub-paragraph 2(b).

38. 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 accepted that in assessing whether an eviction order is reasonable it must consider and weigh all available facts relevant to that decision, and that whilst the landlord's intention may be reasonable that did not necessarily mean that it would be reasonable to make an eviction order. The property rights of a landlord should not be given primacy over the occupancy rights of a tenant, and vice versa.

39. In this case, the Respondent accepts the position that the Applicant does indeed wish to sell the Property. They have made arrangements to speak to the local authority housing department and with the island's Citizens Advice Bureau. They have e-mailed the Applicant's solicitor to state that they do not oppose the application. They have lodged no written representations and have not opposed the process.

40. In the circumstances, the Tribunal finds it reasonable that an order for eviction is granted. The Tribunal determined that it is reasonable to grant an eviction order having regard to the Applicant's own financial and personal circumstances. He is in a situation where he has a number of pressing financial matters which he needs to take care of, including a new roof and replacement windows at his own home, as well as requiring an upgraded motor vehicle. He is getting on in years and does not wish to be a landlord any longer. He wishes to focus on his own health, and that of his wife. In the circumstances, the Tribunal granted an eviction order in favour of the Applicant. The Tribunal in reaching its decision took into account the application and written representations from the Applicant together with the submissions and evidence heard at the Case Management Discussion. The Tribunal gave careful consideration to the positions of both parties.

## **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.**

**Yvonne McKenna**

**2 February 2026**

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**Legal Member/Chair**

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**Date**