

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 (“the Act”) Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/25/3067

Re: Property at 42 Keith Place, The Maltings, Inverkeithing, KY11 1NE (“the Property”)

Parties:

Mr Neal Timmons, 32 Teal Place, Dunfermline, Fife, KY11 8GB (“the Applicant”) per his agents, Innes Johnston LLP, 14 North Street, Glenrothes, Fife, KY7 5NA (“the Applicant’s Agents”)

Mr Kevin Dickson, 42 Keith Place, The Maltings, Inverkeithing, KY11 1NE (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory ground being established and the statutory procedure having been carried out, it is reasonable to grant the Order sought and so the Tribunal granted the Order.

Background

1. By application dated 10 July 2025 (“the Application”), the Applicant’s Agents applied to the Tribunal for an Order for an Order for eviction and possession of the Property based on Ground 1 of Schedule 3 to the 2016 Act.
2. The Application comprised the following:
 - i) copy private residential tenancy agreement between the Parties and an entry date of 21 February 2020;
 - ii) copy Notice to Leave in terms of Ground 1 of Schedule 3 to the Act dated 21 February 2025 with proof of issue;
 - iii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Fife Council being the relevant local authority;
 - iv) copy email correspondence between the Applicant and his solicitors confirming his intention to sell;
 - v) copy mortgage statement;
 - vi) copy rent statement showing arrears of £4,950.00 due and owing as at December 2025 with no rent paid since January 2025;
 - vii) copy pre-action requirement letters sent to the Respondent.
3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (“CMD”) was fixed for 16 January 2026 at 10.00 by telephone conference and intimated to the Parties, and in particular, to the Respondent by Sheriff Officer on 12 November 2025.
4. Prior to the CMD, the Applicant’s Agents lodged an updated rent statement showing that the rent due and owing had increased to £4,950.00.

CMD

1. The CMD took place on 16 January 2026 at 10.00 by telephone. The Applicant, Mr. Timmins, was present and was represented by Ms. Forbes of the Applicant’s Agents. The Respondent was not present and was not represented. He did not submit written representations. The Tribunal was satisfied that the Respondent had been made aware of the CMD and that he ought to attend and so proceeded in his absence.

2. The Application was heard alongside application FTS/HPC/CV/25/3068 between the same Parties seeking an Order for payment of the rent due and owing.
3. Ms. Forbes for Mr. Timmins confirmed that an Order for eviction is sought. The Tribunal explained that it required to be satisfied that the correct statutory process had been carried out, that the Ground for the Application was satisfied and that it was reasonable to grant the Order. In this regard and having heard submissions from Ms. Forbes, the Tribunal advised that it was satisfied that the correct procedure had been carried out and that there was supporting evidence for Ground 1.
4. The Tribunal asked Ms. Forbes to provide information on reasonableness to grant the Order. Ms. Forbes explained that Mr. Timmins does not hold a rental property portfolio and that the Property had been his main residence. She explained that Mr. Timmins chose to lease the Property as part of his personal financial planning for retirement. Ms. Forbes stated that a mortgage is secured against the Property and that Mr. Timmins is also liable for property factor fees. Ms. Forbes explained that, as the current monthly mortgage payment is around £378.00, Mr. Dickson's failure to pay in almost a year has had a significant detrimental effect on Mr. Timmins finances. Ms. Forbes advised the Tribunal that the mortgage on the Property is currently at a fixed interest rate which will end in September this year and so mortgage payments will increase, putting Mr. Timmons under increased financial pressure. She advised the Tribunal that Mr. Timmins does not intend to purchase another rental property and intends to use any proceeds from the sale to redeem the mortgage on his main residence.
5. With regard to the Respondent, Mr. Dickson, Ms. Forbes stated that there has been minimal contact from him in respect of vacating the Property and that there has been no response to the pre-action letters. She stated that she was aware that Mr. Dickson had advised Mr. Timmins' letting agent that he had

made contact with Fife Council for alternative accommodation and had advised them that they would have the Property “back soon.”

6. With regard to Mr. Dickson’s personal circumstances, Ms. Forbes understood him to be in employment and that, although Mr. Dickson lived alone, he had contact with his child.

Findings in Fact

7. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a private residential tenancy of the Property between the Parties commencing on 21 February 2020;
 - ii) The Applicant intends to sell the Property as part of his financial planning for retirement;
 - iii) A mortgage is secured against the Property;
 - iv) Following issue of the Notice to Leave, the Respondent stopped paying rent with no cause or reason to do so;
 - v) The current rent arrears owed by the Respondent to the Applicant amount to £4,950.00;
 - vi) The correct statutory procedure has been carried out;
 - vii) The Applicant relies on regular payment of the full rent to meet his financial commitments secured on the Property;
 - viii) The Respondent is employed and resides alone.

Rule 17 (4) of the Rules

8. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal “*may do anything at a case management discussionincluding making a decision*”. The Tribunal took the view that it had sufficient information to make a decision.

Issue for the Tribunal

9. The issue for the Tribunal was to determine whether or not to grant the Order sought. The Ground on which the Application proceeds is Ground 1 which states: “*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.”

10. The statutory ground and procedure being established and the Application not being opposed, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal took the view that it had sufficient information to make a decision on reasonableness.

Decision and Reasons for Decision

11. The Tribunal had regard to all the information before it and to its Findings in Fact.
12. The Tribunal then had regard to the circumstances of the Parties.
13. The Tribunal must establish, consider and properly weigh the “whole of the circumstances in which the application is made” (Barclay v Hannah 1947 S.C. 245 at 249 per Lord Moncrieff) when deciding whether it is reasonable to grant an order for possession.
14. The Tribunal then looked to balance the rights and interests of both parties.
15. The Tribunal accepted that Mr. Timmins intends to sell the Property as part of his personal financial planning and is fully entitled to do so. The Tribunal had regard to the fact that Mr. Dickson stopped paying rent when the Notice to Leave was issued without cause or reason to do so and has failed to pay rent in almost a year. The Tribunal took into account the extent of the negative financial impact which Mr. Dickson’s actions have had on Mr. Timmins. The Tribunal took the view that the level of rent arrears and pattern of non-payment is not tenable for either Party.

16. With regard to alternative accommodation, the Tribunal had regard to the fact that, if evicted and made homeless, Mr. Dickson would have protection in terms of Part II of the Housing (Scotland) Act 1987 and so would be able to access advice and assistance on homelessness.

17. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction order.

18. This decision is 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.

Karen Moore

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Legal Member/Chair

16 January 2026
Date