

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(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”)

Chamber Ref: FTS/HPC/EV/25/2896

Re: 71A Almondell Road, Broxburn, EH52 5QH
 (“the Property”)

Parties:

Mr Brian Riddell, 9 Braidholm Road, Giffnock, Glasgow, G46 6HF
 (“the Applicant”)

Mr Craig Nicol, 71A Almondell Road, Broxburn, EH52 5QH
 (“the Respondent”)

Tribunal Members:

Pamela Woodman (Legal Member) and Frances Wood (Ordinary Member)

Present:

The case management discussion took place at 2pm on Thursday 22 January 2026 by teleconference call (“**the CMD**”). The Applicant was not present but was represented by Miss Samantha Fraser of Lothian Homes. The Respondent was not present. The clerk to the Tribunal was Elliott Green.

Decision (in the absence of the Respondent):

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in favour of the Applicant against the Respondent under ground 1 of schedule 3 to the 2016 Act (landlord intends to sell).

BACKGROUND

1. An application had been made to the Tribunal under section 51(1) of the 2016 Act and in terms of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“**HPC Rules**”) which are set out in the schedule to The

First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended. More specifically, the application was made in terms of rule 109 (*Application for an eviction order in relation to a private residential tenancy*) of the HPC Rules.

2. The order sought from the Tribunal was an eviction order against the Respondent in respect of the Property on the basis of ground 1 (landlord intends to sell).
3. Ground 1 of schedule 3 to the 2016 Act provides that:
 - “(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.”
4. The application form was dated 4 July 2025 and copies of various documents were provided, including:
 - a. the private residential tenancy agreement between the Applicant and the Respondent, which had a start date of 18 March 2025 – date(s) of signing not clear in copy provided (“**Tenancy Agreement**”).
 - b. a notice to leave dated 2 April 2025 addressed to the Respondent at the Property (“**Notice to Leave**”), which stated that an application would not be submitted to the Tribunal for an eviction order before 28 June 2025 and that the eviction ground was “Your Landlord intends to sell the Let Property” (ground 1).
 - c. a notice under section 11(3) of the Homelessness etc. (Scotland) Act 2003, together with a covering e-mail which appeared to be sending the notice to the local authority on 3 July 2025 but, in the copy provided, the e-mail address of the addressee was not disclosed.
5. A notice of acceptance of the application was issued dated 12 August 2025 under rule 9 of the HPC Rules.

6. The Applicant's representative had sent an e-mail to the Tribunal's administration team on 22 December 2025, which included the following:

"My tenant Mr Colin Nicol has called to advise that he does not wish to take part in this case management call - he is a vulnerable adult... and... does not have anyone to support him on the call or speak on his behalf. I've explained he does not need to join the call if he does not feel comfortable. I have been his main support through this process however I am acting on behalf of his landlord.

He does not oppose the eviction, he simply needs the eviction order for the council to re-home him.

I wanted to give you prior notification that he will not be joining on the day."

7. The Tribunal's administration team responded to note that it could not accept representations on behalf of the Respondent from the Applicant's representative as she was not the Respondent's representative. The Tribunal's administration team also sent a letter to the Respondent including a copy of the e-mail from the Applicant's representative and advising him that:

"As Lothian Homes are not representing you, we are not able to accept information from them on your behalf. Any correspondence will have to be submitted directly by you for it to be added to the case and considered by a legal member."

8. The Respondent had provided any written representations in advance of the CMD.

PROCEEDINGS

9. The Applicant's representative confirmed that the section 11 notice had been sent to section11notices@westlothian.co.uk.
10. When asked about the start date of the tenancy agreement being 18 March 2025 and the Notice to Leave being dated 2 April 2025, the Applicant's representative explained that the Respondent had been a tenant of the Property since 11 January 2016 and that there had been a previous application for an order for possession, which was withdrawn as a result of some discrepancies in the paperwork in or around December 2024. She noted that, at that time, the Applicant had been seeking an investor to take on the Property subject to the tenancy but he was not successful in finding anyone to do so at the rent payable by the Respondent. Accordingly, she noted that the Tenancy Agreement was entered into and the Respondent's support worker was present when the Tenancy Agreement was explained to the Respondent.
11. The Applicant's representative confirmed that the Applicant genuinely intended to sell the Property. She explained that the Applicant has some health conditions and wishes/needs to retire.
12. The Applicant's representative noted that the Respondent had had a portfolio of six properties, three of which he had managed to sell to other investors (at less

than market value as a result of having sitting tenants) and two of which he was in discussions to sell to other investors. She noted that there was no interest from other investors in the Property as a result of the rent being too low for the other investors to accept but the Applicant did not want to increase the rent for the Respondent. She noted that attempts had been made to assist the Respondent in finding an alternative private rented property but none were affordable for the Respondent.

13. The Applicant's representative noted that the Respondent was on full housing benefit and had indicated that he wanted to go down the local authority route because he wanted security.
14. The Applicant's representative noted that the section 11 notice was sent to the local authority and the Respondent had also been to the local authority himself and was on the list for housing but had been told by the local authority not to leave the Property until an eviction order was granted.
15. The Applicant's representative noted that she understood the Respondent to be in his 40s, with no dependents and no close family. She confirmed that he did not require any physical adaptations in a property.

FINDINGS IN FACT

16. The Tribunal noted that the Applicant was the registered proprietor of the Property and so was entitled to sell the Property.
17. The Tribunal was satisfied, on the balance of probabilities, that:
 - a. the Respondent was still in occupation of the Property; and
 - b. the Applicant intended to sell the Property for market value, or at least put it up for sale, within 3 months after the Respondent had ceased to occupy the Property. In addition to the confirmation given by the Applicant's representative during the CMD, Keller Williams Scotland had confirmed by e-mail to the Applicant's representative dated 30 July 2025 as follows:

"...just to confirm we have received instruction from Brian Riddell to mark the property at 71a Almondell Road, Broxburn, EH52 5QH once the current tenant has vacated.

Due to the timescales involved, we will not arrange for the Home Report until the property is vacant, as the report is only valid for three months."

REASONS FOR DECISION

18. The Tribunal was satisfied, on the balance of probabilities, that:
 - a. the requisite notices were valid and had been validly served (and received by the Respondent);

- b. the Applicant intended to sell the Property and Keller Williams Scotland was instructed to progress the sale once the Property was vacant;
- c. it was reasonable to grant an eviction order in the circumstances of this case. This was on the basis that:
 - i. the Applicant had health conditions and was selling his portfolio of properties, including the Property, in connection with retiring.
 - ii. The Applicant had taken steps to assist and explore other options for the Respondent in terms of alternative accommodation but the best option for the Respondent (based on the rent which he could afford) would be to obtain support in rehousing from or through the local authority.
 - iii. The Respondent was in contact with the local authority himself and had indicated to the Applicant's representative that his preference would be to seek accommodation from or through the local authority.

19. Accordingly, the Tribunal found that ground 1 (landlord intends to sell) of schedule 3 to the 2016 Act applied.

DECISION

20. The Tribunal granted the application under section 51(1) of the 2016 Act for an eviction order on the basis of ground 1 (landlord intends to sell).

Right of Appeal

In terms of Section 46 of the Tribunals (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.

P S Woodman

22 January 2026

Legal Member/Chair

Date