



**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/25/3167

Re: Property at 58 Craigour Avenue, Edinburgh, EH17 7NJ (“the Property”)

Parties:

Mrs June Colgan, 43 Stapeley Avenue, Edinburgh, EH7 6QR (“the Applicant”)

Mr Luka Dvoracek, 58 Craigour Avenue, Edinburgh, EH17 7NJ (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Andrew McFarlane (Ordinary (Surveyor) Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at 58 Craigour Avenue, Edinburgh, EH17 7NJ under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees, and others together with their goods, gear and whole belongings furth and from the Property and to make the same void and redd that the Applicant or others in her name may enter thereon and peaceably possess and enjoy the same.

Background

1. This is an application for eviction for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The Applicant’s case is

based on Ground 1 (Landlord intends to sell the Property) of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

2. The application was accompanied by Private Residential Tenancy Agreements between the parties dated 1 January 2021 and 1 January 2022, a letter of terms of engagement with Connor Malcolm solicitors dated 15 July 2025, an affidavit signed by the Applicant dated 17 July 2025, a letter to the Respondent dated 24 August 2024, a Notice to Leave dated 8 April 2025 with a Sheriff Officer's Execution of Service dated 10 April 2025, a Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with an email to Edinburgh City Council dated 22 July 2025 and an email dated 24 July 2025 from Edinburgh City Council.
3. On 25 November 2025 the Tribunal issued a copy of the application and advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 21 January 2026. This paperwork was served on the Respondents by Christopher Andrew, Sheriff Officer, Edinburgh on 26 November 2025 and the Certificate of Intimation was received by the Tribunal administration.

Case Management Discussion

4. The Tribunal proceeded with the CMD on 21 January 2026. Ms Doyle from McEwan Fraser Legal, Solicitors appeared on behalf of the Applicant. Mr Dvoracek the Respondent appeared on his own behalf.
5. The Tribunal had before it the Private Residential Tenancy Agreements between the parties dated 1 January 2021 and 1 January 2022, the letter of terms of engagement with Connor Malcolm solicitors dated 15 July 2025, the affidavit signed by the Applicant dated 17 July 2025, the letter to the Respondent dated 24 August 2024, the Notice to Leave dated 8 April 2025 with a Sheriff Officer's Execution of Service dated 10 April 2025, the Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with the email to Edinburgh City Council dated 22 July 2025 and the email dated 24 July 2025 from Edinburgh City Council. The Tribunal noted the terms of these documents.
6. Ms Doyle submitted that the Applicant intended to sell the Property. The requisite Notice to Leave and Section 11 Notice had been served. The S 11 Notice had been acknowledged by Edinburgh City Council. She referred to the affidavit and the letter of terms of engagement with Connor Malcolm solicitors confirming the Applicant's instructions to them regarding the sale of the Property.
7. She further submitted that the Applicant was 74 years old and is a retired legal secretary. Her husband is a retired, self-employed, house builder. The Applicant wishes to sell as part of their retirement plans to support their

ongoing retirement. The Applicant is at an age and stage in her life where the management of the Property is no longer viable. Mr Colgan is recovering from a recent operation. The couple are under financial pressure due to the increase in interest rates. She submitted the Applicant's monthly payments in respect of the borrowing on the property have risen from around £275 per calendar month to around £549 per calendar month. The rent of £650 barely covers the outlays and expenses involved in running and managing the Property. The financial strain has been compounded over the last two months as the Respondent has not paid rent.

8. In response Mr Dvoracek advised that over the last years he had become disabled due to a loss of toes. He had had to stop working. He was taking advice from the Homelessness Team at Edinburgh City Council and was waiting for the Order to be granted in the hope he could obtain social housing. He confirmed he lived alone at the Property.

Reasons for Decision

9. The Tribunal considered the issues set out in the application together with the documents lodged in support. The Tribunal considered the submissions made by Ms Doyle and Mr Dvoracek.
10. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 1, namely the Landlord intends to sell the Property. This is a discretionary ground of eviction. As well as being satisfied the facts have been established to support the grounds, the Tribunal has to be satisfied that it is reasonable to evict.
11. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave, unless it is not made in breach of any of sections 54 to 56 and unless the eviction ground applied for is stated in the Notice to Leave accompanying the application.
12. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states it is the Applicant's intention to sell the Property at Part 2 of the Notice in terms of Ground 1 of schedule 3. The Notice to Leave specifies the date the landlord expects to become entitled to make an application for an eviction order and specifies a date in terms of Section 54(2) in this case 4 July 2025. In this case the Notice to Leave was received by the Respondent on 10 April 2025 as evidenced by the Sheriff Officer's Execution of Service. In terms of Section 54 the notice period of the Notice to Leave is 84 days. In the circumstances the Tribunal is satisfied the Respondent have been given sufficient notice. Accordingly, the Notice to Leave served on the Respondent complies with Section 62 (1).

13. The Tribunal considered the submissions made on behalf of both parties. The Tribunal was satisfied on the basis of the documents lodged, together with parties' submissions that the factual basis of the application had been established in relation to Ground 1 and was satisfied the Applicant intended to sell the Property. However, Ground 1 is a discretionary ground of eviction. The Tribunal also has to be satisfied that it is reasonable to evict.

14. In determining whether it is reasonable to grant the order, the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal was satisfied that the Applicant's intention was to sell the Property when she obtained possession. She was elderly and was under financial pressure with the rent barely covering her costs. She needed the capital from the Property to assist with her retirement plans. The Tribunal gave considerable weight to those facts. On the other hand, the Tribunal gave weight to the fact that the Respondent did not oppose the application and had sensibly sought help from Edinburgh City Council with rehousing. All things considered, the Tribunal considered the balance of reasonableness in this case weighted towards the Applicant. The Tribunal find it would be reasonable to grant the order.

15. In the circumstances the Tribunal considered that in terms of Ground 1 of Schedule 3 it was reasonable to grant an eviction order in terms of Section 51 of the 2016 Act.

Decision

16. The Tribunal granted an order for repossession. The decision of the Tribunal was 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.

Shirley Evans

21 January 2026

Legal Member

Date