



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/25/2448

Re: Property at 6 Birch Road, Nairn, IV12 4SP (“the Property”)

Parties:

Mrs Siobhan Simpson, Mr Kevin Simpson, 38 Sutors Park, Nairn, IV12 5BQ (“the Applicant”)

Miss Laura Wilkinson, Mr Aidan Park, 6 Birch Road, Nairn, IV12 4SP (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

1. An application had been received under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession under a private residential tenancy by the Applicant against the Respondent for the Property.

2. The application included: -
 - a. Tenancy agreement,
 - b. Notice to leave with evidence of service.
 - c. Section 11 Notice with evidence of service
 - d. Email from estate agent about selling the property.

3. The applicant's agent, Ms Ewan, from E2N Property and the respondents all appeared at the case management discussion on 27 January 2026. The respondents did not appear. There was evidence of service of the application and this hearing date by sheriff officers on 4 December 2025 on the respondents.

Hearing

4. The applicant's agent confirmed that they were still seeking an order for eviction. They advised that the applicants had two sons in further education, and they wished to sell the property, in order that they could use the funds towards supporting their sons while they are students.
5. Miss Wilkinson advised that she did not oppose the application. She resides in the property with her two young sons. She had sought advice from the local housing department, and she had applied for housing with them. Mr Park had left the property already, and he did not oppose the application being granted.

Findings in Fact

6. The Tribunal found the following facts established: -

7. There existed a private residential tenancy between the Applicant and the Respondent.
8. The tenant was Laura Wilkinson and Aidan Park.
9. The landlord was Siobhan Simpson and Kevin Simpson

10. The property is 6 Birch Road, Achareidh, Nairn.
11. It had commenced on 27 November 2023.
12. There was submitted a notice to leave dated 13 March 2025, stating that an application would not be made until 5 June 2025. It sought eviction under ground 1 intention to sell.
13. The notice to leave had been served by hand delivery on 13 March 2025. There was evidence of service.
14. A section 11 notice had been sent to the local authority advising that the landlord was seeking possession of the property. There was evidence of service of that notice.
15. The title deeds for the property show that the landlord was the owner of the property.
16. There was email evidence of the landlord contacting an estate agent about selling the property.
17. The landlord intended to sell the house.
18. Neither respondent opposed the order for eviction being granted.

Reasons for Decision

19. Section 51 of the 2016 Act provides the Tribunal with a power to grant an order for eviction for a private residential tenancy, if it finds that one of the grounds in Schedule 3 of the Act applies.
20. The grounds which the Applicant seeks eviction under are grounds 1. Ground 1 is in the following terms: -

1 Landlord intends to sell.

(1) It is an eviction ground that the landlord intends to sell the let property.

(2) The First-tier Tribunal [may] ² find that the ground named by subparagraph (1) applies if the landlord—

(a) is entitled to sell the let property, [...]³

(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] ⁴

(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.

21. The landlord owns the property and are therefore entitled to sell the property.

The landlord provided evidence of their intention to sell the property. If the order is granted it appears to the tribunal the property will be sold. We find that the application meets the tests set out in ground 1.

22. The tribunal was then required to consider if it would be reasonable to grant the order. We consider it would be reasonable to grant the order for eviction.

23. In deciding to grant the order for eviction, we placed most weight on the fact that neither respondent opposed the order being granted. They both appeared today. Mr Park has in fact already left the property. Miss Wilkinson remains there with her two young sons, she confirmed that she had sought advice from the housing department and she has applied for housing from the local authority. She is on their homeless waiting list. The applicants seek to sell the property to support their older children through further education. We consider in all the circumstances it would be reasonable to grant an order for eviction.

24. Having regard to the matters set out above, the tribunal was prepared to grant the order for recovery of possession under ground 1.

Decision

25. The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

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.

Melanie Barbour

Legal Member/Chair

Date: 27 January 2026