

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/25/2481

**Re:** 72B Dundee Road, Perth, PH2 7BA  
 (“the Property”)

**Parties:**

**Jeffinson Properties Limited, a company incorporated under the Companies Acts with registered number SC081044 and having its registered office at Chapelshade House, 78-84 Bell Street, Dundee, DD1 1HN (“the Applicant”)**

**Mr Cailean McDonald, 72B Dundee Road, Perth, PH2 7BA (“the Respondent”)**

**Tribunal Members:**

**Pamela Woodman (Legal Member) and Elizabeth Dickson (Ordinary Member)**

**Present:**

The case management discussion took place at 2pm on Thursday 15 January 2026 by teleconference call (“**the CMD**”). Mr Stuart Brown, director of the Applicant was present. The Applicant was also represented by Robert Ferrie of McCash & Hunter LLP. The Respondent was not present and was not represented. The clerk to the Tribunal was Kate McLaughlin.

**Decision**

**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 10 June 2025 and copies of various documents were provided, including:
  - a. the private residential tenancy agreement between the Applicant and the Respondent dated 23 November 2019 (“**Tenancy Agreement**”).
  - b. a notice to leave dated 25 February 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 2 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 the covering e-mail sending it to the local authority on 10 June 2025.
5. A notice of acceptance of the application was issued dated 1 August 2025 under rule 9 of the HPC Rules.
6. By e-mail dated 5 January 2026, the Applicant’s representative provided the following information (accompanied by a number of photographs):

*“Since lodging the application, it appears that the respondent may have vacated the property. We are advised by our client that the tenant has not been seen at the address for some time and, following a recent inspection, the property appears to be no longer occupied. Notwithstanding this, the tenant has not returned the keys and has not communicated any intention to formally surrender the tenancy.*

*Due to periods of cold weather and heavy rainfall in December 2025, the property was inspected as a precaution to ensure that no water damage had occurred. Please find attached photographs taken on 24 December which show the property to be vacant. We also attach a copy of a bank statement from the applicant confirming that the last rent payment received was in April 2025.*

*While we are unable to confirm when the property may have become vacant, we provide this update to ensure that the Tribunal is aware of this change in circumstances in advance of the case management hearing scheduled for 15 January.”*

7. The Respondent had not provided any written representations in advance of the CMD.

## **PRELIMINARY ISSUE**

8. It was noted that the notification of the CMD had been served by sheriff officers by leaving the paperwork from the Tribunal’s administration team in the letterbox of the Property on 20 November 2025.
9. Accordingly, it was not known if the Respondent was aware of the CMD but, at the same time, based on the photographic information provided, it appeared that the Respondent was no longer in occupation of the Property. The Tribunal noted that the Tenancy Agreement stated that the Property would be let unfurnished and the photographs provided did not show any furniture, other than kitchen appliances, remaining.
10. It was confirmed to the Tribunal that the rent had continued to be paid until April 2025 but no further payment had been received since. It was also confirmed that there was mail in the Property for the Respondent when the Property had been inspected in December 2025 but this had been left in the Property given that the tenancy had not ended at that stage.
11. It was noted that attempts had been made to contact the Respondent by e-mail and telephone but there had been no response. Mr Brown noted that, prior to the Notice to Leave being served, the Respondent had been very communicative.
12. The Tribunal determined that the CMD could proceed on the basis that there would be an absurd result if the reason for refusing to deal with the matter at the CMD was on the basis of the Respondent not having received notice of the CMD (to hear an application to evict him) which was, in turn, as a result of him already having vacated the Property. The Tribunal determined that, in the particular

circumstances of this case, this would not be in line with the overriding objective set out in HPC Rule 2 and so the CMD could proceed.

## **PROCEEDINGS**

13. It was confirmed that Mr Brown was of retirement age and so intended to sell the Property and then retire.
14. Mr Brown confirmed that he / the Applicant had had 35 properties and that 33 had already been sold, 1 was on the market to be sold and the Property would be marketed for sale as soon as vacant possession was obtained.
15. The Applicant's representative confirmed that McCash & Hunter LLP had been instructed to deal with the sale.
16. Mr Brown confirmed that he / the Applicant had tried to do everything correctly and that there were concerns about the Property (as a result of lack of heating etc) as it may have been empty since June 2025.

## **FINDINGS IN FACT**

17. The Tribunal was satisfied, on the balance of probabilities, that:
  - a. the Applicant intended to sell the Property for market value, or at least put it up for sale, within 3 months after obtaining vacant possession of the Property in terms of the eviction order, and
  - b. it would be reasonable to grant an eviction order.

## **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 (including that the Notice to Leave had been received by the Respondent);
  - b. the Applicant intended to sell the Property and McCash & Hunter LLP was instructed to progress the sale;
  - c. it was reasonable to grant an eviction order in the circumstances of this case. This was on the basis that:
    - i. the Respondent appeared already to have left the Property;
    - ii. there would be an absurd result if the Tribunal insisted that the Applicant serve a new notice to leave under ground 10 (not occupying the Property);
    - iii. Mr Brown / the Applicant wished to retire, and the Property was one of only 2 properties remaining to be sold.

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).

21. Given that the Tribunal did not have consent from the Respondent to send communications by e-mail and it was suspected that the Respondent was no longer in occupation of the Property (to where the decision would otherwise be sent by post by the Tribunal's administration team), the Applicant's representative was directed (and agreed) to send a copy of the written decision to the Respondent (at his e-mail address as set out in the Tenancy Agreement) with a copy to the Tribunal's administration team, within 2 working days of his receipt of the written decision.

## **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.**

Pamela Woodman

*15 January 2026*

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**Legal Member/Chair**

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**Date**