



**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/25/2596**

**Re: Property at 4 Viewfield House, Viewfield Terrace, Dunfermline, Fife, KY12 7HY (“the Property”)**

**Parties:**

**Ms Kellie Jaworski, 31 La Grange Street, Innaloo, WA 6018, Australia (“the Applicant”)**

**Ms Carla Sofia Soares Rodrigues, 4 Viewfield House, Viewfield Terrace, Dunfermline, Fife, KY12 7HY (“the Respondent”)**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

At the Case Management Discussion (“CMD”) which took place by telephone conference on 9 February 2026, the Applicant was not in attendance but was represented by Ms Sarah Scott of Martin & Co Dunfermline. The Respondent was also present.

Prior to the CMD the Applicant’s representative lodged additional documents by email dated 2 February 2026.

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that –**

**Background**

The Tribunal noted the following background:-

- i. The Applicant is the heritable proprietor of the Property.
- ii. The application concerns a Private Residential Tenancy (“the PRT”) entered into between the parties relative to the Property that commenced on 5 July 2022.
- iii. In terms of the PRT the rent was initially agreed to be £525 per month.
- iv. On 4 March 2025, the Applicant per her agents served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 31 May

2025 on the basis of Grounds 1 and 4 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").

- v. The Applicant per her agents has served on Fife Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

### **The CMD**

In the absence of any written submission the Tribunal first sought to understand the Respondent's position. In response to questions from the Tribunal the Respondent stated:-

- i. She is still living in the Property.
- ii. She has approached Fife Council with regard to alternative accommodation and was advised to stay in the Property until an eviction order is granted.
- iii. She has tried to find alternative accommodation privately but cannot afford to do so.
- iv. She checks for properties for let every day and would like to leave.
- v. The position she finds herself in is making her anxious.
- vi. She works in a restaurant. Management there has changed. Her former boss "escaped" and she lost wages in December 2025. She therefore had to pay her rent late and had no money left. She was really embarrassed by that.
- vii. She is now working 33 hours per week and is to receive more hours next month.
- viii. She asks customers if they know of any properties to let.
- ix. She hopes to stay in the area for now.
- x. She lives in the Property alone.
- xi. The Property has one bedroom and is not adapted.
- xii. She does not receive state benefits.
- xiii. She has never been in this situation before.
- xiv. She suggested she did not believe that the Applicant intended to sell the Property and referred to the rent having been increased twice.

Ms Scott for the Applicant made the following submissions:-

- i. The Applicant lives in Australia. She moved there in around 2007.
- ii. The Applicant previously lived in the Property and Ms Scott's firm has been managing tenancies of the Property since December 2007.
- iii. The Applicant initially kept the Property in case she returned to Scotland. However, she has a family and works in Australia as a teacher and will not now be returning. She wishes to sell.
- iv. The rent increased to £540 in October 2023 and to £600 in January 2025. The Applicant has declined to increase the rent this year due to the Respondent's circumstances.
- v. The rent remains below market value.
- vi. There are no rent arrears.
- vii. The Respondent can be difficult to reach. Ms Scott has tendered advice to her on benefits and festive jobs.
- viii. The Applicant did not travel to the UK in June 2025 as previously intended. She needs to live in the Property if she travels here in order to prepare the Property for sale by freshening the decoration and possibly replacing flooring in order to secure best value. She has nowhere else to stay.
- ix. The Applicant has no fixed plans to return to the Property until the Respondent vacates. She might just instruct contractors instead.
- x. With regard to Ground 4 of Schedule 3 of the 2016 Act, Ms Scott said the Property would be the Applicant's principal home whilst she lived there but accepted any stay would be temporary and she would thereafter leave to return to her main residence in Australia. With regard to evidence to support the Applicant's intention

she referred to the flight information produced and the Applicant's email to the Respondent of 3 March 2025.

- xi. With regard to Ground 1, Ms Scott said the Applicant has instructed her firm to proceed with the sale of the Property once it is ready to be marketed.

The Tribunal also canvassed the parties' views on the possibility of suspending any eviction order granted. Ms Scott accepted there to be no urgency to sell. The Respondent said that once she had more hours work next month she might be able to afford a let in the private sector. She thought that in 3 months she might be able to find alternative accommodation without the involvement of Fife Council.

The Tribunal adjourned to consider the parties' representations.

### **Reasons for decision**

There were no material factual differences between the parties.

The application proceeds upon Grounds 1 and 4 of Schedule 3 of the 2016 Act.

### **Ground 4**

Ground 4 of Schedule 3 of the 2016 Act states:-

- "(1) It is an eviction ground that the landlord intends to live in the let property.*
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—*
- (a) the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months,*
- (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.*
- (3) References to the landlord in this paragraph—*
- (a) in a case where two or more persons jointly are the landlord under a tenancy, are to be read as referring to any one of them,*
- (b) in a case where the landlord holds the landlord's interest as a trustee under a trust, are to be read as referring to a person who is a beneficiary under the trust.*
- (4) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the landlord has that intention."*

The Applicant resides in Australia. Any return to the Property would be temporary. The Tribunal was not persuaded on the information available and in the circumstances described that the Applicant's occupation of the Property purely to prepare it for sale could be described as using the Property as her only or principal home in terms of sub-paragraph (1). Further the Tribunal was not persuaded that the Applicant had produced sufficient evidence to satisfy sub-paragraph (4) albeit an affidavit would still not have overcome the Tribunal's concerns relative to sub-paragraph (1).

## **Ground 1**

Ground 1 of Schedule 3 of the 2016 Act states:-

- "(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."*

The Applicant is entitled to sell the Property in terms of sub-paragraph 2(a), being the heritable proprietor thereof.

Sub-paragraph 2(b) requires that the Applicant intends to sell the Property for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it. Sub-paragraph 3 gives examples of the evidence that might be produced to show the landlord has the intention described in sub-paragraph 2(b). In this instance the Applicant relies upon an email from Martin & Co Dunfermline dated 4 March 2025 in terms of which they narrate the likely value of the Property and the basis upon which they would market the Property for sale. The Tribunal accepts this document as sufficient to meet the terms of sub-paragraph 2(b).

The Tribunal also requires to be satisfied that it is reasonable to issue an eviction order in terms of sub-paragraph 2(c). The Tribunal took into account the following:-

- i. The Applicant has been resident in Australia since around 2007.
- ii. The Applicant retained the Property in anticipation she might return there, the Property being her home prior to leaving Scotland.
- iii. The Applicant is settled in Australia, living and working there. She will not now return.
- iv. The Respondent would like to move from the Property.
- v. She is looking for alternative accommodation in the private sector.
- vi. She has applied for local authority accommodation. However, her application will not be progressed until an eviction order is granted.
- vii. The Respondent has no dependents and is working full-time with the likelihood of additional hours next month.

The Applicant's intention to sell the Property and her reasons for doing so as outlined are subjectively reasonable and the Applicant's legal right to dispose of the Property takes precedence over any desire on the part of the Respondent to continue in occupation of the Property. The Tribunal concluded that if the Respondent had been able to find alternative accommodation she would have moved from the Property. The real issue is the availability of affordable alternative accommodation for the Respondent.

On that basis the Tribunal considered it reasonable to grant an eviction order but only in terms of Ground 1 of Schedule 3 of the 2016 Act.

Having reached the decision to grant an eviction order the Tribunal carefully considered whether to delay the execution of the eviction order in terms of Rule 16A(d) of the First-tier Tribunal Housing and Property Chamber Rules of Procedure 2017.

The Tribunal concluded that (i) having regard to the Respondent's circumstances and the efforts she is making to secure alternative housing both in the private and public sectors, and (ii) that there is no real urgency for the Applicant to sell the Property, it is reasonable to provide the Respondent with an extended period of time to obtain alternative accommodation. Accordingly, the Tribunal determined that the enforcement of the eviction order should be suspended until 30 April 2026.

### **Decision**

The Tribunal granted an eviction order against the Respondent in favour of the Applicant with execution of that order delayed until 12noon on 30 April 2026.

### **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.**

Gillian Buchanan

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**Legal Member/Chair**

**9 February 2026**  
**Date**