



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/25/1990

Re: Property at 1 Dasher Gardens, Ardrossan, KA22 7NN (“the Property”)

Parties:

Mr Gordon Muir, 20A Fullarton Drive, Seamill, KA23 9HT (“the Applicant”)

Mr Ray Boylan, 1 Dasher Gardens, Ardrossan, KA22 7NN (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of paragraph 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) are met in this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

In terms of section 54(1) of the 2016 Act, the private residential tenancy between the parties will end on 27 February 2026.

Background

- 1 This is an application for an eviction order under section 51 of the 2016 Act and Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant relied upon ground 1 as the ground for possession, stating his intention to sell the property.
- 2 The application was accepted to proceed to a case management discussion (“CMD”) to take place by teleconference on 27 January 2026. The Tribunal gave notice of the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 3 December 2025.

3 Both parties were invited to make written representations. On 21 January 2026 the Tribunal received an email from CHAP, a housing advisory service, on behalf of the Respondent. CHAP provided a written mandate from the Respondent and confirmed that he would not be participating in the proceedings as he had secured a social tenancy through the local authority.

The CMD

4 The CMD took place on 27 January 2026 at 2pm by teleconference. The Applicant was in attendance and represented by Mr Craig Scott of Rentolease. The Respondent was represented by Ms Andrea Gibson of CHAP.

5 The Tribunal had the following documents before it:-

- (i) Form E application form;
- (ii) Title sheet confirming the Applicant as the registered owner of the property and proof of the Applicant's landlord registration;
- (iii) Private residential tenancy agreement between the parties;
- (iv) Notice to leave and proof of delivery to the Respondent by email;
- (v) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 ("section 11 notice") and proof of delivery to the local authority;
- (vi) Letter from Rentolease to the Applicant acknowledging his instructions to sell the property; and
- (vii) Email from the Applicant authorising Rentolease to act as his representative.

6 The Tribunal explained the purpose of the CMD and proceeded to hear submissions from the parties. The following is a summary of the key elements of the submissions.

7 Ms Gibson confirmed that the Respondent did not oppose the application. He has secured a tenancy with North Ayrshire Council and has been given the keys for that property. He will be moving out imminently.

8 Mr Scott confirmed that the Applicant wished to obtain an eviction order to protect his position. He noted that the Respondent had obtained a new tenancy but wanted the protection of the order just in case there were any issues. The Applicant advised the Tribunal that he is 82 years old and not in good health. He wants to tidy up his affairs so that his daughter won't have to deal with the property upon her inheritance.

Findings in fact

9 The Applicant is the owner and landlord, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement.

10 The Applicant has given the Respondent a notice to leave within the meaning of section 62 of the 2016 Act. The notice was delivered by email. The

Respondent consented to the use of email for the delivery of notices under the terms of the tenancy agreement.

- 11 The Applicant has sent a section 11 notice to the local authority when making this application.
- 12 The Applicant intends to sell the property, or market the property for sale, within three months of the Respondent ceasing to occupy.
- 13 The Applicant requires to sell the property to get his affairs in order. The Applicant is 82 years old and in poor health. The Applicant does not want his daughter to have to deal with the property.
- 14 The Respondent has secured a tenancy with North Ayrshire Council. The Respondent has not yet vacated the property but will do so imminently.

Reasons for decision

- 15 The Tribunal was satisfied that it had sufficient information to make relevant findings in fact and reach a decision on the application in the absence of a hearing under Rule 18 of the Rules based on the documents and submissions from the parties. The Respondent had confirmed he did not intend on opposing the application and was not therefore advancing a defence to the application.
- 16 The Tribunal considered the wording of section 51:-

“51 First-tier Tribunal's power to issue an eviction order

(1)The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

(2)The provisions of schedule 3 stating the circumstances in which the Tribunal may... find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.

(3)The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.

(4)An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.”

- 17 Section 52 of the 2016 Act goes on to state that “*an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant.*” The Tribunal had before it a copy of a notice to leave that was delivered to the Respondent along with a section 11 notice that had been sent to the local authority in accordance with the requirements of section 56 of the 2016 Act.

18 The Tribunal went on to consider the wording of ground 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 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.”*

19 The Tribunal was satisfied based on the documents before it and the submissions from the Applicant and Mr Scott at the CMD that the Applicant is entitled to sell the property as the registered owner, and that he intends to do so within three months of the tenant vacating. His reasons for selling the property as reflected in the Tribunal's findings in fact were entirely credible.

20 The Tribunal therefore considered whether it was reasonable to make an eviction order on account of the facts in this case, which requires the Tribunal to weigh those factors relevant to reasonableness.

21 The Tribunal gave most weight to the fact that the Respondent does not oppose the application. He has secured a tenancy in the social housing sector. He will not be made homeless by the making of an eviction order. The Tribunal also gave weight to the Applicant's property rights as the registered owner and his reasons for selling the property. The Tribunal ultimately concluded that the balance weighed in favour of making an eviction order in this case.

22 Accordingly the Tribunal concluded that ground 1 had been met and determined to make an eviction order under section 51 of the 2016 Act.

23 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.

Ruth O'Hare

27 January 2026

Legal Member/Chair

Date