



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 (“the Act”) Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/25/2268

Re: Property at 103 BURNVALE, LIVINGSTON, EH54 6DQ (“the Property”)

Parties:

MRS RUTH DAVIES, 50 MALLENY MILLGATE, BALERNO, EH14 7AY (“the Applicant”) per her representatives, Almond Letting, 133B, Glasgow Road, Bathgate, EH48 2QN (“the Applicant’s Representatives”)

SUZANNE TIERNEY, 103 BURNVALE, LIVINGSTON, EH54 6DQ (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory ground being established and the statutory procedure having been carried out, it is reasonable to grant the Order sought and so the Tribunal granted the Order.

Background

1. By application dated 27 May 2025 (“the Application”), the Applicant’s Representatives, on her behalf, applied to the Tribunal for an Order for

eviction and possession of the Property based on Ground 1 of Schedule 3 to the 2016 Act.

2. The Application comprised the following:
 - i) copy private residential tenancy agreement between the Parties and an entry date of 27 May 2022;
 - ii) copy Notice to Leave in terms of Ground 1 of Schedule 3 to the Act dated 21 February 2025 with proof of issue;
 - iii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to West Lothian Council being the relevant local authority and
 - iv) copy email from Remax estate agents providing sale costs;
3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (“CMD”) was fixed for 16 January 2026 at 14.00 by telephone conference and intimated to the Parties.

CMD

4. The CMD took place on 16 January 2026 at 14.00 by telephone. The Applicant, Mrs. Davies, was not present and was represented by Mr. Ahmed of the Applicant’s Representatives. The Respondent, Ms. Tierney, was present and was not represented.
5. Mr. Ahmed for Mrs. Davies confirmed that an Order for eviction is sought. Ms. Tierney confirmed to the Tribunal that she did not necessarily oppose the Application but had no alternative accommodation and had been told by the local authority that they could not assist until an eviction order was granted.
6. The Tribunal explained that it required to be satisfied that the correct statutory process had been carried out, that the Ground for the Application was satisfied and that it was reasonable to grant the Order. In this regard and having heard submissions from Mr. Ahmed in respect of Mrs. Davies intention to sell, the Tribunal advised that it was satisfied that the correct procedure had been carried out and that there was supporting evidence for Ground 1.

7. The Tribunal asked Mr. Ahmed to provide information on reasonableness to grant the Order. Mr. Ahmed explained that Mrs. Davies and her husband, the co-owner of the Property, require to sell the Property to finance Mrs. Davies' mother-in-law's care home costs. Mr. Ahmed stated that the Property is the only one which he manages for Mrs. Davies.
8. In respect of reasonableness and her own circumstances, Ms. Tierney advised the Tribunal that she is aged 61 years, lives alone, does not work and is disabled as she has difficulty walking. She confirmed that the Property is not entirely suitable for her needs as it is a first floor flat and she has difficulty climbing stairs. Ms. Tierney confirmed that the local authority had advised that they would be able to assist her with accommodation once an eviction order was granted. Ms. Tierney accepted that Mrs. Davies intended to sell the Property and that she requires to remove from the Property.

Findings in Fact

9. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a private residential tenancy of the Property between the Parties commencing on 27 May 2022;
 - ii) The Property is a first floor flat accessed by stairs;
 - iii) The Applicant intends to sell the Property to finance her mother-in-law's care costs;
 - iv) The correct statutory procedure has been carried out;
 - v) The Respondent is not employed, resides alone and has a mobility issue for which ground floor accommodation would suit her needs better;
 - vi) The Respondent does not oppose the Application.

Rule 17 (4) of the Rules

10. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussionincluding*

making a decision” . The Tribunal took the view that it had sufficient information to make a decision.

Issue for the Tribunal

11. The issue for the Tribunal was to determine whether or not to grant the Order sought. The Ground on which the Application proceeds is Ground 1 which states: *“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 subparagraph (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.”*
12. The statutory ground and procedure being established and the Application not being opposed, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal took the view that it had sufficient information to make a decision on reasonableness.

Decision and Reasons for Decision

13. The Tribunal had regard to all the information before it and to its Findings in Fact.
14. The Tribunal then had regard to the circumstances of the Parties.
15. The Tribunal must establish, consider and properly weigh the “whole of the circumstances in which the application is made” (Barclay v Hannah 1947 S.C. 245 at 249 per Lord Moncrieff) when deciding whether it is reasonable to grant an order for possession.
16. The Tribunal then looked to balance the rights and interests of both parties.
17. The Tribunal accepted that Mrs. Davies intends to sell the Property to fund her mother-in-law’s care costs and is fully entitled to do so.

18. The Tribunal noted that Ms. Tierney does not oppose the Application and has made enquiries with the local authority for alternative accommodation but cannot be rehoused at present. The Tribunal took account of the fact that ground floor accommodation would be preferable for Ms. Tierney because of her disability. With regard to alternative accommodation, the Tribunal had regard to the fact that, if evicted and made homeless, Ms. Tierney would have protection in terms of Part II of the Housing (Scotland) Act 1987 and so would be able to access advice and assistance on homelessness.

19. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction Order. Taking account of Ms. Tierney's particular needs, the Tribunal stayed the effective date of the Order until 16 March 2026 to allow further time for suitable accommodation to be sourced.

20. This decision is 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.

Karen Moore

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Legal Member/Chair

16 January 2026

Date