

# 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 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/25/3608**

**Re: Property at 134 Hunter Drive, Irvine, KA12 9AZ (“the Property”)**

**Parties:**

**Mr John Montgomery, 12 East Park Crescent, Kilmaurs, Kilmarnock, KA3 2QT (“the Applicant”) and**

**James Guthrie & Co LLP, 3 Portland Road, Kilmarnock, KA1 2AN (“the Applicant’s Representative”) and**

**Miss Stacey McCulloch, 134 Hunter Drive, Irvine, Ayrshire, KA12 9AZ (“the Respondent”)**

**Tribunal Members:**

**G McWilliams- Legal Member**

**F Wood - Ordinary Member**

**Decision:**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant the Application.**

**Background and Case Management Discussion on 15<sup>th</sup> December 2025**

1. This Application, contained in papers lodged with the Tribunal, was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).
2. The Applicants’ Representative had provided the Tribunal, in the Application, with copies of the parties’ Private Residential Tenancy Agreement (“the PRT”), the Notice to Leave (“NTL”) served on the Respondent and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to North Ayrshire Council. All of these documents and forms had been correctly and validly

prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied.

3. The Respondent, Miss McCulloch, had been validly served by Sheriff Officers with the Notification of Hearing, Application papers and Guidance Notes from the Tribunal on 4<sup>th</sup> December 2025, and the Sheriff Officers' Certificate of Intimation was produced.
4. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call at 2.00pm on 12<sup>th</sup> February 2026. The Applicant's Representative's Mr C Haswell as well as the Respondent, Miss McCulloch, and her partner, Mr R Duncan, attended.
5. Mr Haswell referred to the Application papers that he had sent to the Tribunal's office. He stated that the Applicant, Mr Montgomery, wishes to recover possession of the Property and sell it for financial reasons. Mr Montgomery reiterated this and said that he is 72 years of age and has an outstanding mortgage in respect of the Property. Mr Montgomery also stated that the Property is in "negative equity".
6. Miss McCulloch stated that she has applied to North Ayrshire Council for a tenancy, for herself, her partner and their three children and is regularly liaising with her Housing Officer. She said that she is agreeable to the grant of an eviction order as this will hopefully give her tenancy application priority.

### **Statement of Reasons**

7. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
8. Schedule 3 (1) (1) of the 2016 Act provides that it is an eviction ground that a landlord intends to sell the let property and confirms the criteria for the grant of an eviction order on this ground.
9. The Tribunal considered the Application papers, including the PRT, NTL and supporting papers, and the submissions made by Mr Montgomery, Mr Haswell and Miss McCulloch. Having done so, the Tribunal found in fact that Mr Montgomery seeks recovery of the Property in order to sell it, Miss McCulloch has applied to her local authority for an alternative tenancy and that she consents to the grant of an eviction order. The Tribunal found in law that Ground 1 in Schedule 3 to the 2016 Act is satisfied and that it is reasonable to grant an eviction order.

### **Decision**

10. The Tribunal granted an order for Mr Montgomery's recovery of possession of the Property as sought in the Application.

## **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.**

Gerald McWilliams

12<sup>th</sup> February 2026

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**G McWilliams  
Legal Member**

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**Date**