



**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/25/2731**

**Re: Property at 87 Brora Street, Glasgow, G33 2DA (“the Property”)**

**Parties:**

**Mr William Cumlin and Mrs Ann Cumlin, Kilncroft, Kirkmichael, Maybole, KA19 7LS (“the Applicants”)**

**Ms Jacqueline (Jackie) Gracey, 87 Brora Street, Glasgow, G33 2DA (“the Respondent”)**

**Tribunal Members:**

**Shirley Evans (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at 87 Brora Street, Glasgow, G33 2DA under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicants after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees, and others together with their goods, gear and whole belongings furth and from the Property and to make the same void and redd that the Applicants or others in their name may enter thereon and peaceably possess and enjoy the same.

**Background**

1. This is an application for eviction for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The Applicants’ case is based on Ground 1 (Landlord intends to sell the Property) of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

2. The application was accompanied by a Private Residential Tenancy Agreement between the parties dated 22 November 2019, a Notice to Leave dated 21 February 2025, a valuation from Countrywide dated 21 May 2025 and a Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with an email to Glasgow City Council dated 20 June 2025.
3. On 12 December 2025 the Tribunal issued a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 4 February 2026. This paperwork was served on the Respondent by Stuart Sinclair, Sheriff Officer, Glasgow on 16 December 2025 and the Certificate of Intimation was received by the Tribunal administration.

### **Case Management Discussion**

4. The Tribunal proceeded with the CMD on 4 February 2026. Ms Baxter from Mellicks, Solicitors appeared on behalf of the Applicant. Ms Gracey the Respondent appeared on her own behalf.
5. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 22 November 2019, the Notice to Leave dated 21 February 2025, the valuation from Countrywide dated 21 May 2025 and the Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with an email to Glasgow City Council dated 20 June 2025. The Tribunal noted the terms of these documents.
6. Ms Baxter submitted she was seeking an Order to evict on behalf of the Applicants. Ms Gracey had been a very good tenant since 2019. Ms Gracey had certain mobility issues and Mr Cumlin had previously helped her with maintaining the garden. The application proceeded on the basis that the Applicants needed to sell the Property. There had been a change in their personal circumstances. Mr Cumlin had previously been self-employed but due to health issues he was no longer able to work and was now on benefits. He is aged 64. Mrs Cumlin is aged 57 and works three days a week. They need to sell to realise the capital from the Property to reduce the mortgage on their home and to alleviate the financial stress they are under.
7. Ms Baxter went on to advise that the Applicants had had discussions regarding their intention to sell with Ms Gracey about six months before they served notice on her. The Property was a first floor property. She understood Ms Gracey had made enquiries with the local authority about being rehoused in a suitable property to take account of her mobility needs. The local authority have advised that they cannot assist until an order to evict is granted. If Ms Gracey had agreed to leave the Property at the expiry of the Notice to Leave she would be treated as being intentionally homeless by the local authority. In the circumstances, it was reasonable to evict.

8. In response, Ms Gracey confirmed that if she left the Property the local authority would treat her as being intentionally homeless. She explained she had mobility issues and as the Property was on the first floor she struggled with the stairs. She had on occasions fallen on the stairs and had fractured her collar bone. She explained she was 59 years of age and lived in the Property with her adult son. She had been told by the local authority that she needed an order to evict before the local authority could assist her and her son. She explained she is on the waiting list and has also been in contact with Wheatley Homes and local housing associations.

### **Reasons for Decision**

9. The Tribunal considered the issues set out in the application together with the documents lodged in support. The Tribunal considered the submissions made by Ms Baxter and Ms Gracey.
10. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 1 of Schedule 3, namely the Landlord intends to sell the Property. The Tribunal noted the valuation lodged by the Applicants from Countrywide.
11. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave, unless it is not made in breach of any of sections 54 to 56 and unless the eviction ground applied for is stated in the Notice to Leave accompanying the application. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states it is the Applicants' intention to sell the Property at Part 2 of the Notice in terms of Ground 1 of schedule 3. The Notice to Leave specifies the date the landlord expects to become entitled to make an application for an eviction order and specifies a date in terms of Section 54(2) in this case 17 May 2025. In this case the Notice to Leave was served on the Respondent on 21 February 2025. In terms of Section 54 the notice period of the Notice to Leave is 84 days. In the circumstances the Tribunal is satisfied the Respondent have been given sufficient notice. Accordingly, the Notice to Leave served on the Respondent complies with Section 62 (1).
12. The Tribunal considered the submissions made on behalf of both parties. The Tribunal was satisfied on the basis of the documents lodged, together with parties' submissions that the factual basis of the application had been established in relation to Ground 1 and was satisfied the Applicants intended to sell the Property. However, Ground 1 is a discretionary ground of eviction. The Tribunal also has to be satisfied that it is reasonable to evict.

13. In determining whether it is reasonable to grant the order, the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal was satisfied that the Applicants' intention was to sell the Property when they obtained possession. Their personal circumstances had changed as a result of which they were under some financial pressure. They needed the capital from the Property to reduce the mortgage on their home. The Tribunal gave considerable weight to those facts. On the other hand, the Tribunal gave weight to the fact that the Respondent did not oppose the application and had sensibly sought help from the local authority with rehousing. The Tribunal also gave considerable weight to the fact the Property was no longer suitable for the Respondent due to her own mobility issues. All things considered, the Tribunal considered the balance of reasonableness in this case weighted towards the Applicants. The Tribunal find it would be reasonable to grant the order.

14. In the circumstances the Tribunal considered that in terms of Ground 1 of Schedule 3 it was reasonable to grant an eviction order in terms of Section 51 of the 2016 Act.

### **Decision**

15. The Tribunal granted an order for repossession. 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.**

Shirley Evans

**5 February 2026**

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**Legal Member**

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**Date**