



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/25/3908

Re: Property at Flat 2 Cardell, Wemyss Bay Road, Wemyss Bay, PA18 6AD (“the Property”)

Parties:

Mr Iain Crighton, 10 Sandhaven Place, Inverkip, Renfrewshire, PA16 0FE (“the Applicant”)

Ms Claire Mulhern, Flat 2, Cardell, Wemyss Bay Road, Wemyss Bay, PA18 6AD (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion (“CMD”) which took place by telephone conference on 3 March 2026 the Applicant was in attendance and was represented by Mr David Sinclair Aiton of Sinclair Services. The Respondent was not present or represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

The CMD took place in respect of this matter and the related case bearing reference FTS/HPC/CV/25/3213.

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 (“PRT”) entered into between the parties relative to the Property that commenced on 8 May 2019.

- iii. The rent was initially agreed to be £550 per calendar month but was subsequently increased to £615 per month from 8 July 2024 and to £700 per month from 8 August 2025.
- iv. On 18 June 2025, the Applicant served on the Respondent a Notice to Leave requiring the Respondent remove from the Property by 11 September 2025 on the basis of Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").
- v. Pre action protocol letters were issued to the Respondent on 14 and 17 July 2025.
- vi. The Applicant has served on Inverclyde Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD the Applicant and Mr Aiton made the following submissions:-

- i. No deposit is held. The Respondent previously sought to pay the deposit in cash but the Applicant was not prepared to accept cash and the funds were returned.
- ii. The Guarantor named in the PRT is now deceased.
- iii. The rent is significantly less than market value.
- iv. The rent arrears are £8,130 as at the CMD with another month of rent falling due on 8 March.
- v. The Respondent's failure to pay rent is putting pressure on the Applicant's household income.
- vi. The Applicant pays £582.62 per month relative to the Property by way of the mortgage, factoring fees and insurance. Other outlays arise from time to time too.
- vii. Prior to the PRT the Applicant had leased the Property for 9/10 years.
- viii. The Property was formerly the Applicant's parents' home and he has had a sentimental attachment to it.
- ix. The Applicant has no other rental properties.
- x. It is not economic to continue to rent the Property out.
- xi. The Respondent is quite secretive and introverted. She appears to be in and out of employment. Neighbours have reported seeing her in a care worker's uniform.
- xii. Rent has always been paid directly by the Respondent by bank transfer.
- xiii. The Respondent lives in the Property alone. The Property has 2 bedrooms.
- xiv. The Respondent has no known disabilities and is in her mid 50s.
- xv. The Applicant has received no request for references for the Respondent that would indicate she is looking for alternative accommodation.
- xvi. The Respondent has "ghosted" the Applicant for 9/10 months.
- xvii. The Applicant has reached out to the Respondent. He has signposted her to sources of housing support. There has been zero engagement.
- xviii. When the section 11 Notice was intimated to the local authority Mr Aiton received a call from a Housing Officer and the background was explained to her. She said she would reach out to the Respondent but nothing more has been heard.
- xix. The last inspection of the Property was around 5/6 months ago. At that time the Respondent stated to the Applicant that she was saving for alternative accommodation. She has declined all subsequent request for access.

Findings in Fact

The Tribunal made the following findings in fact –

- i. The Applicant is the heritable proprietor of the Property.
- ii. The application concerns a PRT entered into between the parties relative to the Property that commenced on 8 May 2019.

- iii. The rent was initially agreed to be £550 per calendar month but was subsequently increased to £615 per month from 8 July 2024 and to £700 per month from 8 August 2025.
- iv. On 18 June 2025, the Applicant served on the Respondent a Notice to Leave requiring the Respondent remove from the Property by 11 September 2025 on the basis of Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").
- v. Pre action protocol letters were been issued to the Respondent on 14 and 17 July 2025.
- vi. No deposit is held.
- vii. The Guarantor named in the PRT is now deceased.
- viii. The rent arrears are £8,130 as at the CMD with another month of rent falling due on 8 March.
- ix. The Respondent's failure to pay rent is putting pressure on the Applicant's household income.
- x. The Applicant pays £582.62 per month relative to the Property by way of the mortgage, factoring fees and insurance. Other outlays arise from time to time too.
- xi. Prior to the PRT the Applicant had leased the Property for 9/10 years.
- xii. The Property was formerly the Applicant's parents' home and he has had a sentimental attachment to it.
- xiii. The Applicant has no other rental properties.
- xiv. It is not economic to continue to rent the Property out.
- xv. The Respondent lives in the Property alone.
- xvi. The Respondent has no known disabilities and is in her mid 50s.
- xvii. The Applicant has received no request for references for the Respondent that would indicate she is looking for alternative accommodation.
- xviii. The Respondent has "ghosted" the Applicant for 9/10 months.
- xix. The Applicant has reached out to the Respondent. He has signposted her to sources of housing support. There has been zero engagement.
- xx. The Applicant has served on Inverclyde Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- xxi. When the section 11 Notice was intimated to the local authority Mr Aiton received a call from a Housing Officer and the background was explained to her. She said she would reach out to the Respondent but nothing more has been heard.
- xxii. The last inspection of the Property was around 5/6 months ago. At that time the Respondent stated to the Applicant that she was saving for alternative accommodation. She has declined all subsequent request for access.

Reasons for decision

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally by him and Mr Aiton at the CMD was not challenged and was accepted by the Tribunal.

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

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 McArthur Scott dated 16 July 2025 relative to the marketing and sale of the Property. 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. There are very significant arrears of rent due by the Respondent.
- ii. The absence of payment of rent is significantly impacting the Applicant's finances particularly given that he continues to outlay £582.62 each month by way of the liabilities payable for the Property.
- iii. The Respondent's tenancy of the Property is no longer commercially viable.
- iv. The Property was the Applicant's late parent's home but his sentimental attachment to it has diminished due to recent events as described herein.
- v. The Applicant now intends to sell the Property.
- vi. The Respondent has failed to engage at all.

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

Decision

The Tribunal granted an eviction order against the Respondent in favour of the Applicant in terms of Ground 1 of the 2016 Act.

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

Legal Member/Chair

3 March 2026

Date