



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/25/2859

Re: Property at 14 Macintosh Place, Kilmarnock, KA3 7ND (“the Property”)

Parties:

Mrs Catherine Horner, 72 Macnaughton Drive, Kilmarnock, KA3 7ND (“the Applicant”)

Miss Amanda O’Dea, 14 Macintosh Place, Kilmarnock, KA3 7ND (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant. The extract is superseded to 26th June 2026.

Background

1. An application was received by the Housing and Property Chamber dated 2nd July 2026 as amended 25th July 2026. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 and 12 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 9th January 2026, all parties were written to with the date for the Case Management Discussion (“CMD”) of 24th February 2026 by teleconferencing. The letter also requested all written representations be submitted by 30th January 2026.

3. On 13th January 2026, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 13th January 2026.

The Case Management Discussion

4. A CMD was held on 24th February 2026 by teleconferencing. The Applicant was present and represented herself. The Respondent was present and represented herself.
5. The Applicant said that she was still seeking an order for eviction. She is under financial pressure to due to personal financial issues and the cost of living. This is the only property that she owns for rental purposes. She did not mean to be a landlord. The Property was for her son and the Respondent. They have now ended their relationship. There have been three deaths in her family and this is a further stress.
6. The Applicant said that there is a mortgage over the Property. The mortgage is interest only. The term ends next year. She is not in the position to make payment to the outstanding amount due. She said that the Property is a two bedroomed property with a box room.
7. The Applicant and Respondent agreed that the tenancy started on 1st October 2021. The Tribunal noted that though there is no lease a Private Rented Tenancy ("PRT") was in creation as it does not need to be written in terms of Section 3 of the Act.
8. In terms of ground 12, the Tribunal was not prepared to accept the inclusion of this ground. It was not on the Notice to Leave. In addition there was only one month of rent arrears at date of the Notice to Leave. The also have been no Pre Action Requirement letters. The Appellant accepted these points.
9. The Respondent said that she lived in the Property with her 12 year old son and two Staffordshire Bull Terrier dogs. Her son is in first year of secondary school. He has Crohn's. She does not want to move him schools unless she has to do so. He would be able to take public transport to school.
10. The Respondent said that she has no where to move to if she were to be evicted. She had initially got a text message telling her to leave. She was informed by the homeless department of her local authority that this was not the legally correct way to be notified. When the Notice to Leave was served on her she took that to her local authority. She was offered a property in September 2025 but was a first floor flat which was not suitable for her two dogs. She is now trying to get a private rented property. She is finding this difficult due to the current rental price or that an extra deposit is required for her dogs. She has just applied for two more properties and is waiting to hear back in relation to those applications. Her housing officer has referred her to get further advice. The Tribunal noted that she may wish to get further advice in connection to this

which she can do from contacting a solicitor, law centre, Citizens Advice Bureau or other appropriate advice agency.

11. The Tribunal discussed with parties about superseding the Order. The Tribunal suggested that it could be superseded until the end of June 2026 to allow for the Respondent to find a new property and let her son finish his school year in particular because he has Crohn's which may be affected by this situation. The Applicant said that she was not opposed to this as she then had a plan and would be able to proceed with the sale after. The Respondent said that she was content with this as it would give her time to find another property. The Tribunal noted that the Order would need to be legally enforced. The Applicant should take appropriate advice from a solicitor, sheriff officers or other appropriate advice agency. The Tribunal also noted that the Respondent is not bound to remain in the Property until she is evicted. The Applicant confirmed that the Respondent would not need a notice period though she will need to follow standard end of tenancy procedures. Both parties were content with this.

Findings and reason for decision

12. A Private Rented Tenancy Agreement commenced 1st October 2021. While there was not a written PRT lodged it is accepted by both parties that this was the start date and that the PRT existed by virtue of Section 3 of the Act which stipulates that a lease does not need to be written.
13. The Applicant now wants to sell the Property. The Applicant does not want to be a landlord anymore. The Property requires to be vacant before it is sold or there will be a reduction in the sale value for the Property. The Applicant wants to sell the Property to elevate on going personal financial difficulties.
14. The Property is subject to a mortgage which is interest only. The mortgage term ends next year. The Applicant is not in the position to pay off the remaining sums due without selling the Property.
15. The Respondent is not opposed to the granting of an order on the basis that the extract is superseded to 26th June 2026. The Respondent has spoken to her local authority housing department who will not rehouse her as she has refused a homeless property offer. She did this as it was not suitable for her two dogs. She is looking to the private rental market for a new property.
16. The Respondent and her son no known vulnerabilities or disabilities other than the Respondent's son having Crohns.
17. There are no issues of reasonableness that prevent an order from being granted.

Decision

18. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant.

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.

G Miller

24th February 2026

Legal Member/Chair

Date