



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/25/3158

Re: Property at 15 Mayville Gardens, Edinburgh, EH5 3DB (“the Property”)

Parties:

Mrs Sarah Oliver, Mr William Oliver, 50 Abigale Lane, New Castle, New Hampshire, 03854, United States (“the Applicant”)

Mr David Corden, 15 Mayville Gardens, Edinburgh, EH5 3DB (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) have been met in this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

In terms of section 51(4) of the 2016 Act the private residential tenancy between the parties will end on 1 March 2026.

Background

- 1** This is an application for an eviction order under rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 and section 51 of the 2016 Act. The Applicants relied upon ground 1 as the ground for possession, stating their intention to sell the property.
- 2** The application was accepted and referred to a case management discussion (“CMD”) to take place by teleconference on 29 January 2026. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the

Rules. Said notice was served upon the Respondent by sheriff officers on 8 December 2025.

- 3 Both parties were invited to make written representations in advance of the CMD. On 15 January 2026 the Tribunal received written representations from the Applicants' representative, Lindsays LLP. The representations included written submissions and affidavit of Mrs Sarah Oliver.
- 4 No written representations were received from the Respondent.

The CMD

- 5 The CMD took place on 29 January 2026 by teleconference. Mr Sam Morton of Lindsays LLP represented the Applicants. The Respondent did not join the call. Mr Morton explained that the Respondent appeared to still reside at the property. The Respondent had indicated to the Applicants' letting agent that he was moving out, so he was clearly aware of the application. The Tribunal noted that the Respondent had been given notice of the CMD and had failed to provide any explanation for his absence. The Tribunal therefore determined to delay the start time of the CMD for a short period before proceeding in his absence.
- 6 The Tribunal had the following documents before it:-
 - (i) Form E application form and paper apart;
 - (ii) Title sheet confirming the Applicants' ownership of the property and proof of landlord registration;
 - (iii) Private residential tenancy agreement between the parties;
 - (iv) Notice to leave and proof of delivery to the Respondent by email;
 - (v) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 and proof of delivery to the local authority;
 - (vi) Sales agreement between the Applicants and Murray & Currie Property pertaining to the sale of the property dated 3 July 2025;
 - (vii) Affidavit of Mrs Sarah Oliver; and
 - (viii) The Applicants' written submissions.
- 7 The Tribunal heard submissions from Mr Morton on behalf of the Applicants. The following is a summary of the key elements of the submissions.
- 8 Mr Morton summarised the Applicants' position. They have settled in the USA permanently, where their son is receiving treatment for his medical condition. They need the capital from the property to purchase a suitable home. It was reasonable for an eviction order to be granted on that basis. Mr Morton had little information regarding the Respondent's circumstances, other than he resided alone at the property. There did not appear to be any rent arrears outstanding.
- 9 The Tribunal adjourned the CMD to deliberate, at which point Mr Morton left the call, before resuming the proceedings and confirming the outcome.

Findings in fact

- 10 The Applicants are the owners and landlords, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement, which commenced on 29 July 2024.
- 11 The Applicants have given the Respondent a notice to leave within the meaning of section 62 of the 2016 Act. The notice to leave included ground 1. The notice to leave was delivered by email. The Respondent consented to the use of email for the delivery of notices under the terms of the tenancy agreement.
- 12 The Applicants have given the local authority a notice under section 11 of the Homelessness etc (Scotland) Act 2003 at the time of making this application.
- 13 The Applicants intend to sell, or market the property for sale, within three months of the Respondent ceasing to occupy.
- 14 The Applicants are settled in the USA, where the second named Applicant has secured permanent employment. The Applicants currently reside in a rental property.
- 15 The Applicants wish to purchase a property in New Hampshire for themselves and their son who suffers from a degenerative medical condition and receives treatment at a nearby hospital. The Applicants require a home that will suit their son's needs.
- 16 The Applicants require the sale proceeds from the property to purchase a home in the USA. The property is the only property owned by the Applicants.
- 17 The Respondent is believed to reside alone at the property.
- 18 The Respondent has not opposed the application.

Reasons for decision

- 19 The Tribunal was satisfied that it could make relevant findings in fact to reach a decision based on the documentary evidence and submissions from Mr Morton at the CMD, and that to do so would not be contrary to the interest of the parties in this case. There was no contradictory evidence before the Tribunal and therefore no issues to be resolved that would require a hearing to be fixed.
- 20 Section 51 of the 2016 Act provides that "*The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.*"
- 21 Section 52 of the 2016 Act goes on to state that "*an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave*

which has been given to the tenant.” The Tribunal had before it a copy of a notice to leave that had been sent to the Respondent which cites ground 1 of schedule 3 of the 2016 Act. The Tribunal was also satisfied that the Applicant had sent notice under section 11 of the Homelessness etc (Scotland) Act 2003 to the local authority in accordance with the requirements of section 56 of the 2016 Act.

- 22** The Tribunal considered whether ground 1 applied in this case, the terms of which are contained in paragraph 1 of schedule 3 of the 2016 Act:-

“Landlord intends to sell

*1(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.”*

- 23** The Tribunal determined based on the documents before it and the submissions from Mr Morton at the CMD that the Applicants are entitled to sell the property as the owners, and that they intend to do so within three months of the Respondent vacating. Their reasons for selling the property, as outlined in the Tribunal’s findings in fact, were compelling and supported by the affidavit from the first named Applicant and the sales agreement with Murray and Currie Property.
- 24** The Tribunal therefore determined that paragraphs 2(a) and (b) of paragraph 1 of schedule 3 were met and went on to consider whether it was reasonable to make an eviction order.
- 25** The Tribunal considered the Applicants’ property rights as the heritable owners, and their reasons for selling the property. The Tribunal noted that they need to sell the property to release capital to purchase a home for themselves and their son now that they have settled in the USA. The Tribunal took into account the fact that their son has acute needs arising from his medical condition, and it is therefore crucial that they acquire a home that can meet those needs.
- 26** The Respondent had not sought to oppose the application. The Tribunal therefore had scant information regarding his circumstances and considered it

was for him to put forward any information he wished the Tribunal to take into account in assessing reasonableness. He had chosen not to do so. The Tribunal did note that he appears to reside alone at the property. There would therefore be no dependents at risk of homelessness if an eviction order was granted.

27 Having carefully considered all the circumstances of this case as they pertain to reasonableness, the Tribunal concluded that the balance weighed in favour of making an eviction order. The Tribunal therefore determined that the provisions of paragraph 1 of schedule 3 of the 2016 Act had been met and made an eviction order under section 51 of the 2016 Act.

28 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.

Ruth O'Hare

29 January 2026

Legal Member/Chair

Date