



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/1846

Re: Property at Myrtle Cottage, 7 Armadale Road, Whitburn, Bathgate, EH47 0ET (“the Property”)

Parties:

Ms Martha Jennifer Sibbald, Mr Gary Compton (Executor), 1 Cultsykefoot, Whitburn, EH47 0AE; 16 Glenshee, Whitburn, EH47 8NY (“the Applicants”)

Mr Russell Barrie, Myrtle Cottage, 7 Armadale Road, Whitburn, Bathgate, EH47 0ET (“the Respondent”)

Tribunal Members:

Alastair Houston (Legal Member) and Sara Hesp (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order in terms of paragraph 1 of schedule 3 of the 2016 Act be made in favour of the Applicant.

1. Background

- 1.1 This is an application under rule 109 of the Chamber Rules whereby the Applicants seek an eviction order on the basis that they intend to sell the property. The application was accompanied by copies of the written tenancy agreement between the parties, the notice to leave given to the Respondent and confirmation of instruction of an estate agent to market the property upon vacant possession being obtained.
- 1.2 The application was conjoined with an application for payment in respect of unpaid rent, reference FTS/HPC/CV/25/1847. No written representations had been received from the Respondent in advance of the Case Management Discussion however, the Respondent had submitted eight applications seeking payment of damages relating to a number of alleged

breaches of repairing duties on the part of the Applicants. These were scheduled for a Case Management Discussion alongside the two conjoined applications.

2. The Case Management Discussion

2.1 The Case Management Discussion took place on 23 March 2026, by teleconference. The Applicants were represented by Ms Donnelly, solicitor. The Respondent appeared personally.

2.2 Ms Donnelly confirmed that the application was insisted upon. The tenancy between the parties began on 9 October 2020. The property was initially jointly owned by the Second Named Applicant and her sister, Mrs Jane Compton. Mrs Compton had suffered from serious illness and had sadly passed away on 17 May 2025. Her husband was now named as the First Named Applicant in his role as executor of her estate. The subjects had been valued at £170,000 during his application for confirmation. The property, together with one other which had been jointly owned, required to be sold in the administration of the estate of Mrs Compton. Notice to leave had been served in October 2024 and the Respondent had ceased payment of rent thereafter. He had sent correspondence to Mrs Compton directly rather than the agents whilst she was seriously ill. The length of time this was taking was causing considerable stress and anxiety to the Applicants, who had both required time off work following the death of Mrs Compton. This had, in turn, impacted their finances which also necessitated the sale of the property. When the Applicant applied to rent the property, he had stated that he was in employment and earning a salary of £150,000 per year. The Applicants had noted that there appeared to be a number of companies registered at the property address. They held a belief that he was carrying out a form of online trading from the property and that he had the means to secure alternative accommodation. Furthermore, they were aware that an application had been made to the Tribunal relating to a tenancy deposit paid in respect of tenancy of another property in Glasgow which had commenced in May 2022. There were also issues with the conduct of the Respondent recently in that he had pretended to be the owner of the property to the local authority and given false information regarding an electrical inspection. There had also been the prolonged attendance of the fire brigade on 18 March 2026. Ms Donnelly submitted that the ground was satisfied and that it was reasonable to make an eviction order.

2.3 Mr Barrie confirmed that he had received notice to leave. He did not dispute the intention of the Applicants to sell the property. He denied having been aware of Mrs Compton's illness when contacting her, rather, he was attempting to resolve the repairing issues at the property. He confirmed that he was retired and his income comprised of state pension, pension credit, Personal Independence Payments and a payment from a trust fund which paid for two private carers. He was a disabled person who had suffered from physical disabilities for around 10 years. He required level access accommodation with an accessible wet room. He used a wheel

chair much of the time. He recognised that he required to move from the accommodation and had applied for housing from the local authority and hoped to be rehoused in the next three weeks. Essentially he did not oppose the application for an eviction order.

2.4 The Tribunal thereafter moved on to the conjoined application. It then became clear that parties wished an opportunity to discuss the applications as a whole in an effort to see if a negotiated settlement could be reached. The Tribunal afforded the parties an adjournment to allow for discussions to take place. Upon reconvening, the parties indicated that an agreement had been reached in principle. The Respondent confirmed that, given the position, the present application for an eviction order was not opposed.

3. Reasons For Decision

3.1 The Applicants had given valid notice to leave to the Respondent. The had demonstrated a prima facie intention to sell the property within three months of vacant possession being obtained. Accordingly, the only issue for the Tribunal was one of reasonableness.

3.2 Given that said by the parties, the Tribunal did not consider that a hearing was required. The circumstances in which the Applicants found themselves necessitated the sale of the property. Furthermore, the Respondent indicated that the application was not opposed and he expected to leave the property imminently and obtain alternative accommodation through the local authority. In all of the circumstances, it was reasonable to make an eviction order as sought by the Applicants.

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.

Alastair Houston

Legal Member/Chair

23 March 2026
Date