



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/25/3444

Re: Property at 7 Hyvot Court, Edinburgh, EH17 8QZ (“the Property”)

Parties:

Mrs Denice Ford, 18/23 Northwood House, Lauder Road, Edinburgh, EH9 2EL (“the Applicant”)

Miss Amie Graham, 7 Hyvot Court, Edinburgh, EH17 8QZ (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Eileen Shand (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 7 Hyvot Court, Edinburgh, EH17 8QZ under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicant 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 Applicant or others in her 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 Applicant’s 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 commencing 19 September 2023, emails dated 8 April -3 July 2025 between the Applicant and Portfolio, a Notice to Leave and email dated 21 May 2025, an email from the Respondent to the Applicant dated 6 August 2025, various text messages between the parties and a Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with an email to Edinburgh City Council dated 11 October 2025.
3. On 28 February 2026 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 20 April 2026. This paperwork was served on the Respondent by Dale G Barrett, Sheriff Officer, Edinburgh on 3 March 2026 and the Certificate of Intimation was received by the Tribunal administration.

Case Management Discussion

4. The Tribunal proceeded with the CMD by way of teleconference call on 20 April 2026. Both parties were in attendance and appeared on their own behalf.
5. The Tribunal had before it the Private Residential Tenancy Agreement between the parties, the emails dated 8 April -3 July 2025 between the Applicant and Portfolio, the Notice to Leave and email dated 21 May 2025, the email from the Respondent to the Applicant dated 6 August 2025, the various text messages between the parties and the email and Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 to Edinburgh City Council dated 11 October 2025. The Tribunal considered the terms of these documents.
6. With reference to the email from the Respondent to the Applicant of 6 August 2025 Ms Graham clarified she was not opposing the application. She explained that on receiving the Notice to Leave she had taken it to the Council who have confirmed they can provide her with temporary accommodation. She has signed up to the Edindex common housing register. She has two sons aged 2 and 10. Her eldest son attends the local school.
7. On the basis there was no opposition to the application the Tribunal invited Mrs Ford to confirm her reason for selling the Property. She explained that her husband had been involved in a bad accident and sustained life changing injuries. He had lost his job and they lost their house as it was a tied tenancy. They need to sell the Property to buy a ground floor property for her husband's needs. She had originally approached Portfolio who specialise in selling properties with sitting tenants, but she could not go through with that as the price they would have received was much lower than they had expected. They had to sell on the open market. She intended to use Warners solicitors in the sale.

Reasons for Decision

8. The Tribunal considered the issues set out in the application together with the documents lodged in support.
9. 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, namely the Landlord intends to sell the Property. This is a discretionary ground of eviction. As well as being satisfied the facts have been established to support the grounds, the Tribunal has to be satisfied that it is reasonable to evict.
10. 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.
11. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states it is the Applicant's 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 13 August 2025. In this case the Notice to Leave was received by the Respondent on 21 May 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 has 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 Applicant 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 Applicant's intention was to sell the Property when she obtained possession. Her reason for doing so was extremely personal and clearly related to providing her and her husband with a home that would be suitable for his needs. She had previously considered selling the Property with Ms Graham being a sitting tenant but financially that did not work for her. It was reasonable that she use the sale proceeds to buy a suitable ground floor property for her and her husband to live in. 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 Council with rehousing. Having two children and the cause of eviction being out with the Respondent's control, the Tribunal was satisfied the Council would assist the Respondent and her family to secure alternative accommodation. All things considered, the Tribunal considered the balance of reasonableness in this case weighted towards the Applicant. 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 in favour of the Applicant. 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

20 April 2026

Legal Chair

Date