



**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**

**Chamber Ref: FTS/HPC/EV/24/2926**

**Re: Property at 38 Willowpark Court, Airdrie, ML6 0DS (“the Property”)**

**Parties:**

**Mr Stephen Broadley, 6 Railway Road, Airdrie, ML6 9AB (“the Applicant”)**

**Ms Sharon Aitken, 38 Willowpark Court, Airdrie, ML6 0DS (“the Respondent”)**

**Tribunal Members:**

**Valerie Bremner (Legal Member) and Eileen Shand (Ordinary Member)**

**Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in favour of the Applicant and against the Respondent in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Applicant is entitled to sell the let property, intends to sell it for market value or at least put it up for sale within three months of the tenant ceasing to occupy it and the Tribunal was satisfied on account of those facts that it is reasonable to grant an order. The Tribunal delayed the period of execution of the order by a period of 2 months in terms of Rule 16A of the Tribunal rules of procedure.

**Background**

1. This application for an eviction order was first lodged with the Tribunal on 26<sup>th</sup> June 2024 and accepted by the Tribunal on 28<sup>th</sup> October 2024. A case management discussion was first fixed for 14<sup>th</sup> July 2025 and this was continued until 22<sup>nd</sup> September 2025 at 10am.

**Case Management Discussion**

2.The Applicant did not attend the case management discussion on 22<sup>nd</sup> September 2025 but was represented by Mrs Kent. The Respondent Ms Aitken attended and represented herself.

3.The Tribunal had sight of the application, a tenancy agreement, a Notice to Leave and email sending this to the Respondent, an email thread confirming the Respondent had received the Notice to Leave, a Notice in terms of section 11 of the Homelessness etc ( Scotland ) Act 2016 and an email sending this to the local authority, a letter from the Applicant's bank, a photograph of the property for sale on an auction website with a tenant in place , a rent statement and emails between the Applicant's representative and the Tribunal. Since the case management discussion in July 2025 the Applicant's representative Mrs Kent had submitted an up to date rent statement.

4.The parties had entered into a tenancy agreement for the property with effect from 4<sup>th</sup> June 2020.

5.The Tribunal was advised by Mrs Kent that the Applicant required to sell the property to alleviate financial hardship. He had a number of rented properties, and these properties had loans on them which were not traditional loans and payments to these loans were not mortgage payments. The loan had expired in 2023; it was a loan based on a number of properties and the Applicant required to sell this property to deal with the outstanding loan. The Applicant had tried to sell the property with the Respondent as a sitting tenant, but this had not yet been successful. He considered he had no option now but to sell the property with vacant possession to pay off the loan he had with the bank.

6.The Tribunal considered whether there was sufficient information before it to show financial hardship on the part of the Applicant and after discussion Mrs Kent requested to amend the eviction application to be permitted to seek an eviction order on the basis of Ground 1 of Schedule 3 of the 2016 Act , the Applicant's intention to sell the let property. The Tribunal noted that this ground was not referred to in the Notice to Leave but that if appropriate the Tribunal had discretion to allow a landlord to amend the application to include a ground of eviction not stated in the Notice to Leave in terms of Section 52(5) of the Private Housing ( Tenancies) (Scotland) Act 2016.This was explained to the Respondent and she understood the position and did not wish to seek advice.

7.The Respondent Ms Aitken's position was that she accepted that the Applicant landlord wished to sell the property, and she did not wish to oppose amendment of the application or the granting of the eviction order on the basis of Ground 1 of the Act. She had lived at the property for 5 years and had known it would not be forever. She lived there alone and for 2 years since the eviction had been raised, she said she had been unsettled. She had sought advice and had been advised not to make herself intentionally homeless .She said she had been packed up and ready to leave for 3 months before the case management discussion. She had approached both the local authority and a housing association several times to see if she could obtain another property. She had a number of health conditions which she explained and the rented property was on the second floor and not suitable for her housing needs given her medical conditions. She had been told she had maximum points for social housing but needed eviction dates. She was seeking time to move out and find somewhere

else to stay. The Tribunal explained usual, approximate timescales should an order be granted and Ms Aitken confirmed that she understood and considered she would require around 2 months to move out and find somewhere else to stay. For the Applicant, Mrs Kent indicated that the Applicant would not object to a short delay in execution of any eviction order granted.

8.The Tribunal was prepared to allow the Application to be amended to include a request for eviction under Ground 1 of the 2016 Act instead of Ground 1A of the Act given the background to the matter, the fact that the Respondent knew and understood that the Applicant intended to sell the property and that she did not oppose an order being granted on that basis.

9.The Tribunal had sight of a Notice to Leave dated 20<sup>th</sup> March 2024 and a notice in terms of section 11 of the Homelessness etc ( Scotland ) Act 2003 sent to the local authority on 21<sup>st</sup> June 2024.

10.The Tribunal was satisfied that it had sufficient information upon which to make a decision and that the proceedings had been fair.

### **Findings in Fact**

11.The parties entered into a tenancy agreement over the property with effect from 22<sup>nd</sup> June 2020.

12.The Applicant has a number of rental properties which are financed using a loan structure linked to all the properties which is not traditional and is not a mortgage.

13.The loan on the Applicant's rental properties expired in 2023 and requires to be repaid and the Applicant intends to sell this property as soon as possible to assist with the payment of the loan.

14.The Applicant had already tried to sell the property on an auction website with the Respondent in place as a tenant , but this has been unsuccessful.

15.The Applicant owns the let property and is entitled to sell it.

16.The Applicant intends to sell the let property for market value or at least put it up for sale within three months of the Respondent ceasing to occupy it.

17.The Respondent lives at the property alone and has a number of health conditions.

18.The Respondent does not oppose the eviction order on the basis that the Applicant intends to sell the property and knows that he requires to do this.

19.The Respondent has enquired many times with both local authority and a housing association to find out if she can be re housed.

20.The Respondent's health conditions mean that the rented property on the second floor is not suitable for her housing needs.

21. A Notice to Leave in proper form setting out the original eviction ground, Ground 1A, the intention to sell the property to alleviate financial hardship and dated 20<sup>th</sup> March 2024 was sent to the Respondent by email on that date and this notice indicated that no application for eviction would be made to the Tribunal before 15<sup>th</sup> June 2024.

22. A Notice in terms of Section 11 of the Homelessness ( Scotland ) Act 2003 was sent to North Lanarkshire Council on 21<sup>st</sup> June 2024 in relation to this application.

23. The Tribunal allowed the eviction application to be amended to reflect that the eviction order was being requested under Ground 1 of the 2016 Act.

### **Reasons for Decision**

24. The tribunal was satisfied that the appropriate procedures had been carried out in terms of the Notice to Leave and section 11 notice sent in this application. The tribunal allowed the Ground for eviction to be amended to reflect that the order was being requested in terms of Ground 1 of the Act and not Ground 1A of the Act. This was explained to the Respondent who did not object and indicated that she had always known that the Applicant intended to sell the property. The Applicant has tried to sell the property with the Respondent in occupation as a sitting tenant but that has not been possible, and he now wishes to sell the property with vacant possession. He requires to do so to assist in paying off a loan to a bank which expired in 2023. The Applicant's subjective intention to sell was set out for the tribunal in that he requires to pay off a loan linked to this property which has expired. The Applicant's objective intention was evidenced in that he produced current marketing documentation for the property and a letter from his bank. Having considered the overall circumstances the tribunal considered that it was reasonable to grant the order, the decisive factor here being the applicant's requirement to pay off an expired loan when weighed against those of the Respondent who does not object to an order being granted and is seeking to be rehoused.

25. The Tribunal delayed the period of execution of the order by a period of 2 months to allow the Respondent to find suitable alternative accommodation, in terms of Rule 16A of the Tribunal rules of procedure.

### **Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an eviction order be granted in favour of the Applicant and against the Respondent in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Applicant is entitled to sell the let property, intends to sell it for market value or at least put it up for sale within three months of the tenant ceasing to occupy it and the Tribunal was satisfied on account of those facts that it is reasonable to grant an order. The Tribunal delayed the period of execution of the order by a period of 2 months in terms of Rule 16A of the Tribunal rules of procedure.

## 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.**

Valerie Bremner

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Legal Member/Chair

22.9.25  
Date