



**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/25/2283**

**Re: Property at Flat 2/1, 22 Renfield Street, Renfrew, PA4 8RN (“the Property”)**

**Parties:**

**Mrs Tracey Adams, 12 Glen Gavin Way, Paisley, PA2 7DF (“the Applicant”)**

**Ms Naima Elghalbi, Flat 2/1, 22 Renfield Street, Renfrew, PA4 8RN (“the Respondent”)**

**Tribunal Members:**

**Nairn Young (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

- Background

This is an application for an eviction order against the Respondent, who occupies the Property in terms of a private residential tenancy agreement with the Applicant (in her capacity as the executrix of her late father’s estate). It called for case management discussion (‘CMD’) at 10am on 1 April 2026, by teleconference. The parties were on the call in-person.

- Findings in Fact

The Respondent confirmed that she did not disagree with any of the facts as set out in the application. The Tribunal considered the following as relevant to its decision:

1. The Applicant's father let the Property to the Respondent in terms of a private residential tenancy agreement with a start date of 16 November 2022.
2. On 21 January 2025, the Applicant hand-delivered a notice to leave to the Respondent, stating that she would rely on Ground 1 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 ('the Act') in any application to the Tribunal to follow.
3. On the notice, the date identified as the earliest an application could be made was 15 April 2025.
4. This application was first submitted on 27 May 2025 and was accepted by the Tribunal on 4 November 2025.
5. The Applicant's father has died and the Applicant acts as his executrix. The Property forms part of his estate.
6. The Applicant intends to sell the Property for market value, or at least put it up for sale, as soon as the Respondent ceases to occupy it.
7. The Respondent has contacted the local authority and has been awaiting rehousing for some years.
8. The Respondent will not be given significant priority for rehousing until she has an order for eviction granted against her.
9. The Respondent lives alone at the Property, but has significant movable property there which will require to be organised prior to her being able to vacate it.
10. The Applicant has given consideration to the beneficiaries of the estate continuing to operate the Property as a let; however, some of these are children, who are thus unable to enter into such a responsibility, and those who are more senior do not wish to become landlords.

- Reasons for Decision

11. Given that this application proceeds on the basis of a notice which does not contain the date required by s.62(1)(b) of the Private Housing (Tenancies) (Scotland) Act 2016 ('the Act'), the Tribunal had to consider the applicability of s.73 of the Act to that error and whether it could thereby entertain the application. It is not immediately clear that s.73 may be applied to a notice with such a deficiency, given that s.73(2)(d) extends the ability to overlook minor errors only to notices to leave, "as defined by s.62(1)." A notice without the date required by s.62(1)(b) does not meet that latter definition. It is also not immediately clear that an error that shortens the length of the notice period to be given does not, "materially affect the effect," of the notice, as is required for s.73 to operate.

12. Nonetheless, the Tribunal is aware of the case of *Halcrow v. Davies and Hunter* (UTS/AP/25/0019), in which the Upper Tribunal considered whether s.73 should be applied to an error of a similar type. Sheriff Collins clarified the law in that case, to the effect that an error in a notice to leave is susceptible to being overlooked in terms of s.73; and that an error shortening the period of notice is not automatically excluded from such treatment. The whole facts and circumstances surrounding the practical effect of the error are to be taken into account by the Tribunal in determining whether it materially affects the effect of the notice.

13. The Tribunal considered that, in this case, considered in that way, the error does not materially affect the effect of the notice. The error shortens the period of notice by one day, as a result of the date required being the date after the notice period expires, rather than the date of expiry itself. Against a total notice period of 84 days, this is a slight shortening only. In addition, the application was not in fact made until some weeks after the correct notice period had elapsed. Still longer passed before it was accepted and served upon the Respondent. In practice, therefore, she has had significantly longer than the notice period to be aware of the potential that she might be evicted

and take relevant action in response. Additionally, the Respondent has not entered opposition to the application and, following the *Halcrow* case, may thereby be taken not to consider her interests to have been materially prejudiced by the error (para.27 of that case). The error may therefore be overlooked and the matter proceed, as if the notice to leave had been completed correctly.

14. Following that conclusion, the Tribunal determined that Ground 1 is established and, in particular, it is reasonable for the order to be granted. On the face of things, the Applicant should be allowed to sell and the Respondent has not presented any information to suggest otherwise.

15. The Respondent did ask for further time to allow the local authority to support her. The Applicant suggested that suspending execution of the order by a long time would merely result in the local authority giving the Respondent lower priority for help. There is some force in this submission; but the Tribunal felt that some extra time would be reasonable to allow the Respondent to prepare to leave, given she has a lot of personal effects to arrange. It therefore decided that the order should not be enforceable any sooner than 22 May 2026.

- Decision

### **Eviction order granted.**

### **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.

# Nairn Young

1<sup>st</sup> April 2026

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**Legal Member/Chair**

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**Date**