



**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/25/3605**

**Re: Property at 3 Robert Smith Court, Lumphinnans, Cowdenbeath, Fife, KY4 8AE (“the Property”)**

**Parties:**

**Mr Christopher Stark, 69 Fieldfare View, Dunfermline, Fife, KY11 8FY (“the Applicant”)**

**Mr Christopher Thomas, 3 Robert Smith Court, Lumphinnans, Cowdenbeath, Fife, KY4 8AE (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Ms S Brydon (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted**

**Background**

1. This is a Rule 109 application whereby the Applicant is seeking an eviction order under ground 1. The Applicant lodged a copy of a private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 6<sup>th</sup> October 2023, a notice to leave with evidence of service, a section 11 notice with evidence of service, and evidence of intention to sell.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by personal service by Sheriff Officer on 12h February 2026.

**The Case Management Discussion**

3. A Case Management Discussion (“CMD”) took place by telephone conference on 26<sup>th</sup> March 2026. Both parties were in attendance.

4. The Applicant said he wished to sell the Property as he wishes to remove the stress and strain of letting property due to taxation and investment changes, and due to his recent marriage. This is one of two let properties that the Applicant intends to sell. The Applicant said he had tried to assist the Respondent in finding alternative accommodation.
5. Responding to questions from the Tribunal regarding the period of notice given in the notice to leave, the Applicant said he was aware that the notice period was a couple of days short. The Respondent had accepted the position, and the Applicant said he hoped this would allow the notice to be accepted.
6. The Respondent said he lives alone at the Property. He is in part-time work and in receipt of health-related benefits. The Respondent said he and the Applicant have a good relationship, and he has been kept informed of the position. The Respondent is receiving support from Fife Private Rental Solutions, and he has been offered a property in Leven. This property would be more affordable for him. The property is under renovation, and no date has yet been given for its availability. The Respondent said he has been in contact with the local authority, but he has not heard anything recently, and that is a worry for him. The Respondent said he understands the local authority will be in touch with him when the outcome of the CMD is known.
7. The Tribunal asked parties for their views in regard to an extension of the period before which the eviction order can be executed. The Applicant said he was concerned that there may be further delays before the property in Leven is available; however, he would not be opposed to a two to four-week extension. The Respondent said he would be grateful for a period of two months.

### **Findings in Fact and Law**

8.
  - (i) Parties entered into a private residential tenancy in respect of the Property which commenced on 6<sup>th</sup> October 2023.
  - (ii) Notice to leave has been served upon the Respondent.
  - (iii) The defect in the notice to leave does not materially affect the effect of the notice to leave.
  - (iv) The Applicant intends to sell the Property.
  - (v) The Applicant is entitled to sell the Property.

- (vi) The Applicant intends to sell the Property or at least put it up for sale within three months of the Respondent ceasing to occupy the Property.
- (vii) It is reasonable to grant an eviction order.

### **Reasons for Decision**

9. The Tribunal noted that the notice to leave had failed to correctly specify, in accordance with 62(1)(b) of the 2016 Act, the day on which the Appellant expected to become entitled to make an application for an eviction order. The notice to leave was served by email on 27<sup>th</sup> May 2025. The date inserted at part 4 was 18<sup>th</sup> August 2025. The correct date should have been 22<sup>nd</sup> August 2025 (allowing for a period of 84 days plus 48 hours for service by email). The Tribunal had regard to the Upper Tribunal decision UTS/AP/25/0019 in considering whether the defect materially affected the effect of the notice to leave, in terms of section 73(2)(d) of the 2016 Act. The Tribunal took into account that the Respondent did not oppose the eviction order and considered it would assist him in obtaining alternative accommodation. The Respondent did not appear to regard the effect of the error as materially prejudicial to his interests. The Tribunal took the view that the error in the date at part 4 did not materially affect the effect of the notice to leave, as the error was not so fundamental as to render the notice to leave invalid.
10. Ground 1 of Schedule 3 of the Act provides that it is an eviction ground if the Landlord intends to sell the let property. The Tribunal may find that the ground is met if the landlord 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 is satisfied that it is reasonable on account of those facts to issue an eviction order. The Tribunal is satisfied that ground 1 is met.
11. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
12. The Applicant no longer wishes to be a landlord. He is selling his rented properties due to issues with investment and taxation, and due to his recent marriage.
13. The Respondent is not opposed to the order being granted. The Respondent has been promised alternative accommodation which will be more affordable for him.
14. The Tribunal considered it was reasonable to grant the order sought. The Tribunal considered it was reasonable to delay execution of the order for a period of two months, given that no date has been provided to the Respondent for a move into the alternative accommodation.

## **Decision**

15. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 26<sup>th</sup> May 2026.

## **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.**

# H Forbes

**Legal Member/Chair**

**Date: 26<sup>th</sup> March 2026**