



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/24/5136

Re: Property at 15/12 Gibson Terrace (otherwise known as 15/4 Gibson Terrace), Edinburgh EH11 1AT)

("the Property")

Parties:

Ms Lyn Wright, 21/6 Mortonhall Road, Edinburgh, EH9 2HS ("the Applicant")

Mr Lee McCorgray, 15/12 Gibson Terrace, Edinburgh, EH11 1AT ("the Respondent")

Tribunal Members:

Sarah O'Neill (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for recovery of possession should be granted in favour of the Applicant against the Respondent. The Tribunal delayed execution of the order until 31 July 2026.

Background

1. An application was received from the Applicant's representative on 7 November 2024 under rule 109 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 ('the 2017 rules') seeking recovery of the property under Ground 1 (landlord intends to sell) as set out in Schedule 3 of the 2016 Act.
2. Attached to the application form were:

- (i) Copy private residential tenancy in place between the parties, which commenced on 14 December 2017.
 - (ii) Copy Notice to Leave addressed to the Respondent dated 2 April 2024 citing ground 1, and stating the date before which proceedings could not be raised to be 2 July 2024.
 - (iii) Copy notice under section 11 of the Homelessness etc. (Scotland) Act 2003 addressed to Edinburgh City Council, together with covering email dated 7 November 2024.
3. Further to requests from the Tribunal administration, further information was received from the Applicant's representative on 12 November and 12 December 2024. This included:
- (i) Copy email from Let Property estate agents dated 11 November 2024, stating that the property was on the market.
 - (ii) Copy home report in respect of the property by DM Hall, dated 29 January 2024.
 - (iii) Further information regarding the correct postal address for the property.
 - (iv) Covering email from the Applicant to the Respondent dated 2 April 2024 enclosing the Notice to Leave.
4. The application was accepted on 15 January 2025.
5. A case management discussion (CMD) was held on 1 July 2025. The Applicant was represented by Mr Jeffrey Livingstone of Landlord Specialist Services Scotland. The Respondent was present on the teleconference call and represented himself.
6. The Tribunal asked the Respondent whether the only issue was that of reasonableness. The Respondent said that he had only skimmed reading through the documents and had not studied them in detail so could not say for certain. The tribunal asked Mr Livingstone how much the Applicant was paying each month on her mortgage and what her other outgoings were on the property. Mr Livingstone said he did not have that information available.
7. The Tribunal explained to the parties that because it had to determine whether it was reasonable to grant an eviction order, it had to take into account the circumstances of both parties. It was apparent that the Tribunal did not have sufficient information before it at this time to make a decision. The Tribunal therefore determined to adjourn the proceedings to a hearing primarily on reasonableness, although at this stage the procedural aspects were not agreed.

8. The Tribunal indicated to Mr Livingstone that it would expect the Applicant to be present at the hearing to give evidence, and that the Tribunal should be supplied with documentary evidence showing the Applicant's rental income from the property and her outgoings, including mortgage payments and all other expenses. The Tribunal explained to the Respondent that much of the information provided by him with regards to the Applicant's behaviour and the anti-social behaviour of neighbours was not relevant to the issue of reasonableness. The Tribunal indicated that it would expect to hear evidence from the Respondent about his personal circumstances and as to why it would not be reasonable in the circumstances for an eviction order to be granted.
9. Detailed written submissions were received from the Respondent on 14 July, 25 September, and 20, 21, 24 and 27 October 2025. On 14 October 2025, CHAI notified the Tribunal that it was representing the Respondent with regard to the application. CHAI later confirmed on 23 October that it had withdrawn from representing the Respondent.
10. The Tribunal held a teleconference hearing on 28 October 2025. The Applicant was not in attendance but was again represented by Mr Livingstone. The Respondent was present and represented himself.
11. Mr Livingstone indicated that the Appellant would not be attending due to health issues and the stress of the proceedings. The Tribunal questioned how it could determine the application without hearing evidence from the Applicant or seeing any supporting documentary evidence, having indicated at the CMD that this would be required.
12. Mr Livingstone indicated that the absence of any documentation was due to an "oversight" on his part. He sought to withdraw the application, despite having no instructions from the Applicant to do so. The Respondent said he was ready to proceed with the hearing. He had spent time preparing for the hearing and opposed the continuation of the matter.
13. The Tribunal decided that it could not accede to Mr Livingstone's request to withdraw the application given that he did not have the Applicant's instructions to do so. The Tribunal therefore decided to adjourn the hearing. Prior to fixing a date for a continued hearing, the Tribunal required the Applicant to confirm in writing no later than 11 November 2025 whether she wished to proceed with the application. If she wished to proceed, she was required to attend the hearing to give evidence and to lodge in advance the documentary evidence that supported and vouched her position.

14. On 11 November 2025, an email was received from Mr Livingstone confirming that the Applicant wished to continue with the application. Attached were a statement from the Applicant, and a “budget planner” showing a breakdown of her income and expenditure relating to the property.
15. A continued hearing was fixed for 24 March 2026. Further written submissions were received from the Respondent on 3 and 4 March 2026. The Respondent asked for the hearing to be postponed until after 1 July as the coming months were the busiest time of year for his business. Having considered his request, the Tribunal refused it, given how long the matter had already been ongoing and in light of the overriding objective, and avoiding delay in particular.
16. Further written submissions were received from the Respondent on 17 March 2026. On the same date, he submitted seven items of video and audio evidence. The Tribunal decided to accept three of these, which were then also uploaded for the Applicant to view. The Tribunal did not accept the four remaining files because they appeared to show third parties, and the Respondent had not provided evidence that consent had been granted by those parties and/ or that they were aware of being recorded.

The continued hearing

17. The Tribunal held a continued hearing by teleconference on 24 March 2026. The Applicant was present and was again represented by Mr Livingstone. The Respondent was present and represented himself.

Preliminary issues

18. Both parties confirmed that they did not intend to call any witnesses. The Applicant confirmed that she had seen the Respondent’s recent written submissions and video evidence, which had been sent to her the day before the continued hearing.
19. The Tribunal noted that it appeared from the papers that there may have been a previous tenancy between the parties prior to the current private residential tenancy. The Applicant confirmed that there had been a previous tenancy, which she thought was a short assured tenancy, which began in 2011.
20. The Legal Member asked whether the Respondent accepted that the ground for the eviction was established i.e. that the Applicant intended to sell the property. It was unclear from the notes of the CMD and initial hearing whether this had been agreed, and whether only the issue of reasonableness was to be considered at the continued hearing. The Respondent indicated that he did not necessarily accept that the Applicant intended to sell the property. The Tribunal therefore proceeded

to hear evidence from the parties on: 1) whether ground 1 was established and 2) if so, whether it was reasonable to make an eviction order in all the circumstances of the case.

The Applicant's submissions

- 21.** The Applicant asked the Tribunal to grant an eviction order. She confirmed that she intended to sell the property as soon as possible, once she had vacant possession.
- 22.** The property had been on the market with the Respondent as a sitting tenant since November/December 2023, and remained for sale on Rightmove on this basis. She had decided to try to sell it with a sitting tenant because it was clear that the Respondent did not wish to leave, and she thought it would be a quicker route to a sale. She had been advised at the outset that she would likely get a lower price than if she were to sell with vacant possession, but had not been deterred by this. There had been very little interest from investment buyers, however, because the current rent of £468.50 per month was too low to generate a sufficient return.
- 23.** After the property had been on the market for a few months with no interest from buyers, she had concluded that if she was to sell the property, she would need to do so with vacant possession. She had therefore served a Notice to Leave on the Respondent on 2 April 2024. The property had remained on the market with the Respondent as a sitting tenant in the meantime. There had been one interested buyer at some point during 2025, but they were not aware that there was a sitting tenant and when they found out that was the case, the proposed sale fell through.
- 24.** The Applicant said that she had kept the rent so low because the property was “not fancy” and there was no central heating. She had increased the rent once from its initial level of £455 to £468.59 per month, but had not done so again as she just wanted to sell the property. Mr Livingstone said that the current market rent for a similar one bedroom property in the area was around £950 per month. The property was therefore unattractive to any investment buyer who may be looking to take out a buy to let mortgage.
- 25.** The Applicant had instructed a home report in January 2024, which was now out of date, and she intended to instruct a new one once the property could be sold with vacant possession.
- 26.** She no longer wished to be a landlord and was finding the ongoing situation very stressful. Her personal circumstances had changed significantly over the past eighteen months or so and were now very different from when she had initially put the property on the market. Her father passed away quite suddenly in February 2025, a few months after her mother was diagnosed with cancer. She now spends most of her time caring for her mother.

27. The property is the Applicant's only rental property. She is approaching retirement age, and has taken retirement from her job and paid off the mortgage over the property. She is making very little profit on the rental, as demonstrated by the "budget planner" she had submitted.
28. The eviction process and her attempts to sell the property have become very stressful and are an additional burden, which is affecting her mental health. It was now clear that she would be unable to sell the property without vacant possession. She could not see another way to resolve matters, and needs to get on with her life. She confirmed that she is aware of the terms of Ground 1.

The Respondent's submissions

29. The Respondent said that he did not believe anything the Applicant said. While he had initially believed that the Applicant intended to sell, there was no evidence to suggest that this was the case. He said that he now believed it was more likely that she intended to carry out improvements to the property and re-let it at a higher rent.
30. He said that the Applicant had produced no evidence that she was unable to sell the property with a sitting tenant. She had said that there had been no interest in the property from potential buyers other than the one she had mentioned in 2025. He pointed to an email from the Applicant dated 2 October 2024 which he had submitted, in which she stated that the estate agency had contacted her regarding a potential viewer.
31. He pointed out that it was not he who set the rent, but the Applicant as landlord. He disputed the figures provided by the Applicant in her budget planner. He said that the figures shown for the rental income were incorrect. He said that no estate agent fees for the sale were included, which suggested that the property was not on the market. He queried the validity of the entries shown for landlord time and disputed that the Applicant had paid factor's fees as shown. He said it was evident that the Applicant was making a profit on the rental of the property, contrary to her claims.
32. He also disputed that the market rent was as high as Mr Livingstone had stated. He said that while the figure quoted may be accurate for other properties in the surrounding area, he believed that the market rent for the particular street within which the property is located was closer to £670-700, due to the presence of social housing and antisocial residents nearby.
33. He had experienced serious difficulties over a seven year period with antisocial social tenants living in the building next door. He thought that the Applicant should have done more to help with this. She had sent one email, but had not really tried to help. He said that if she had done so, he may have been in a better situation

financially with regard to his business and may therefore have been in a position to move out.

34. He again accused the Applicant of having previously tried to evict him illegally. He had to call the police, who told her and her partner to back off. He alleged that she had also previously tried to serve him with a Notice to Leave when this was illegal during the previous moratorium on evictions.
35. He also said that there were a number of urgent repairs which were required in the property. He had reported these to the Applicant but they had not been addressed. She was happy to leave the property in a state of disrepair. He had submitted video evidence and photographs to the Tribunal regarding these repairs issues. He had not made a repairing standard application to the Tribunal because he was concerned that this might trigger another Notice to Leave. He believed that when he had asked for repairs previously, this had led to a Notice to Leave. He said that the CAB had advised him last summer not to submit an application until the eviction application was decided.
36. He believed that the Applicant has treated him badly and he was clearly very angry about the situation he finds himself in. The whole eviction process had also taken up a lot of his time, which had affected his income. This was the busiest time of the year for his business, and he had lost some potential clients recently because he has been spending time on preparing for the tribunal process.
37. He said that if the required repairs were carried out and there continued to be no issues with neighbours, as at present, he would like to stay in the property. He is settled in the area and it is close to everything he does socially.
38. He had tried to find somewhere else to live, in both Edinburgh and Perth, but has been unsuccessful. He has not looked for housing in any other areas. He wishes to stay in Edinburgh. He has lived in the city since 1998 and his life and friends are there. He also runs a sports group and a gaming group in the city, and he had provided testimonials from member of both groups.
39. He could not find anywhere else in the private rented sector due to his low earnings as a self-employed maths and science tutor for both high school and university students. His earnings have dropped since Brexit. He had provided evidence of his earnings from 2024-25. He had even been refused by a housing association which he had applied to for a mid-market rent property because his income was too low.
40. There is a housing crisis, particularly in Edinburgh, which is not his fault. He does not want to go back to living in shared accommodation, as he has a lot of belongings and also runs his business from home. He would ideally like a property

of his own. If he could move, he would be happy to do so, but that seems impossible.

41. He had contacted the Homeless Unit at Edinburgh City Council earlier in the process, but they had not got back to him. There were many others ahead of him in the queue. He does not currently have an active housing application with the Council. He had first applied to the Council around 8 years ago and had assumed that he would be accruing points over that period. Because he has not been bidding for properties during that time, however, he is no longer on the list. Therefore, there seemed little point in pursuing this, given the number of people currently seeking accommodation in the city. The Homeless Unit were however, awaiting an update from him on the outcome of the today's hearing and he knew how to make contact with them.
42. He confirmed that he lives alone in the property. He has no other employment aside from his tutoring business. He has another film making business but does not make any money from his. He has recently turned to photography and hopes to make an income from this. He is considering looking for other work, but the tutoring is a full time business, as he constantly needs to spend time studying and bringing himself up to date with new courses.
43. He is not in receipt of any benefits. He has no mobility issues. He has been suffering from pains in his chest and believes that he has had pleurisy for the past four years. While he has had no diagnosis, his doctor has mentioned this illness. He is unable to take time off work due to illness because he is self-employed.
44. The Respondent submitted that it would be unreasonable to evict him, because the Applicant has not really tried to sell the property with him as a sitting tenant and because he cannot find anywhere else to go and may have to leave Edinburgh.

Further submissions by the Applicant

45. The Applicant and Mr Livingstone then responded to some of the points raised by the Respondent. Regarding the budget planner provided, Mr Livingstone conceded that there had been an error in calculating the rental income shown for the period from April 2024 - October 2025. The figure for that period should have been £8763.30, rather than £4686.50 as shown. The Applicant confirmed that the Respondent had always paid the rent aside from one month, when she had to instruct a debt recovery firm and the rent was eventually paid.
46. The Applicant confirmed that she had stopped paying the factor's fees at one point due to the issues with the anti-social tenants next door, but said that this had been paid now and they were actively organising a common repair to the roof. With

regard to the landlord's time shown, Mr Livingstone said that HMRC required this to be factored in as a cost for management of the property.

47. The Applicant said that she had forgotten about the other potential viewer from October 2024, but that there had been no others. With regard to the repairs issues, she said that she did always try to carry out repairs if they were raised with her but that it could be difficult to get tradespeople. She admitted that she had not fixed the shower because she had thought the Respondent would soon be leaving the property. In response to questions from the Tribunal on why she had kept the rent so low, she said she and the Respondent had had a better relationship in the past, and she did not increase the rent because there was an understanding the tenant would take care of the property.

48. Mr Livingstone submitted that many of the issues which the Respondent had raised were not relevant to whether it was reasonable to grant an eviction order.

Findings in fact

49. The Tribunal made the following findings in fact:

- The Applicant is the sole owner of the property. She is therefore entitled to sell the property.
- The Applicant is the registered landlord for the property.
- The Applicant does not currently have a mortgage secured over the property.
- There is a private residential tenancy agreement in place between the parties, which commenced on 14 December 2017.
- There was previously a short assured tenancy agreement between the parties in respect of the property, which started in around 2011.
- The Applicant had initially served a notice to quit on the Respondent in July 2017.
- The Notice to Leave was validly served on the Respondent by email on 2 April 2024.
- The Applicant sent a valid notice to Edinburgh City Council under section 11 of the Homelessness etc. (Scotland) Act 2003 on 7 November 2024.
- The rent for the property was initially £455 per month and had later been increased to the current rent of £468.65 per month.
- The property had been on the market with a sitting tenant since late 2023 and was still on the market as at the date of the continued hearing.
- The property is the only rental property owned by the Applicant.
- The Applicant intends to sell the property or put it up for sale within 3 months of the Respondent ceasing to occupy it.
- The Respondent lives alone in the property, which is a one-bedroom flat.

- The Respondent is self-employed and is not in receipt of benefits. He is currently living on a low income.

Reasons for decision

50. The Tribunal first considered whether the legal requirements of Ground 1, as set out in Schedule 3 of the 2016 Act (as amended), had been met. Ground 1 states:

Landlord intends to sell

1(1) It is an eviction ground that the landlord intends to sell the let property.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—

(a) is entitled to sell the let property, and

(b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

51. The Tribunal noted that the Applicant is the sole owner of the property, which she bought in 1997. While the Respondent initially appeared to challenge the Applicant's entitlement to sell, he eventually accepted that she was entitled to do so. The Tribunal determined that as the sole owner of the property, the Applicant is entitled to sell the property.

52. The Tribunal then considered whether the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it.

53. The Applicant said that the property had been on the market with the Respondent as a sitting tenant for more than two years, and remained for sale on Rightmove on this basis as at the date of the continued hearing.

54. The Respondent disputed that the Applicant intended to sell the property. He said that there was no evidence that she intended to sell it. He believed that she intended to carry out works to improve the property and then re-let it. He was unable to point to any evidence to support this, other than his own belief that this was the case.
55. It appeared to the Tribunal that the Respondent found it difficult to clearly distinguish between whether the Applicant intended to sell the property and whether she had been attempting to sell it with him as a sitting tenant.
56. The Tribunal does not agree with the Respondent that there was no evidence that the Applicant intends to sell the property. The Applicant had produced a home report dated 29 January 2024 and an email from Let Property estate agents dated 11 November 2024, stating that the property was on the market. It remained on the market with the Respondent as a sitting tenant as at the date of the continued hearing. The Tribunal was satisfied that this is evidence tending to show that the Applicant has the intention set out in sub-paragraph 2(b) of Ground 1.
57. The Tribunal also had regard to the Applicant's oral evidence. She had made clear that she no longer wished to be a landlord and wished to sell the property as soon as possible. The Tribunal found the Applicant's evidence to be credible on this point.
58. Having considered all of this, the Tribunal determined that the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it.

Reasonableness

59. The Tribunal then considered whether it was reasonable to make an order for recovery of possession. In doing so, it took into account all of the circumstances of the case.
60. The Tribunal was aware that the Respondent has been living in the property for around 15 years and has made his home there. The Applicant confirmed that, other than during one month, he has always paid the rent. He is however facing the loss of his home through no fault of his own. He has lived in Edinburgh for many years, and due to his low income, it will be difficult for him to find a property for his sole occupancy in the city given the current housing situation.

61. While the Tribunal recognised the Respondent's frustrations regarding his issues with anti-social neighbours, the alleged outstanding repairs and the Applicant's alleged behaviour, none of these issues are directly relevant to the issue of reasonableness.
62. The Tribunal also noted that the Applicant was clearly keen to sell the property as soon as possible. She no longer wishes to be a landlord and wishes to sell the property and get on with her life. As the owner of the property, the Applicant has a legal right to use and dispose of it as she sees fit, within the confines of the law.
63. She has clearly tried for some time to sell the property with the Respondent as a sitting tenant, but this has been unsuccessful. She therefore needs to be able to sell it with vacant possession. While she is clearly making some profit from the rental, even on the adjusted figures agreed by Mr Livingstone, this totals only around £241 per month on average. Had she increased the rent to a figure closer to the market rent for the area, the property would have been much more profitable. It would also, however, have been less affordable for the Respondent.
64. The Tribunal carefully considered all of the evidence and all of the circumstances of the case as set out above. While the Tribunal had some sympathy for the Respondent, given the situation he finds himself in, it considered that on balance it was reasonable to grant an eviction order.
65. In reaching its decision, the Tribunal gave particular weight to the fact that the Applicant no longer wishes to be a landlord and given her circumstances has concluded that she has no alternative but to sell the property with vacant possession. She has the right to dispose of her own property, and it would not be reasonable for the Tribunal to compel her to remain as a landlord against her wishes. The Tribunal also noted that while the Respondent has lived in the property for around 15 years, he appears to have been aware since July 2017, when the Applicant first sent him a notice to quit under the previous short assured tenancy agreement, that she wished to recover possession of the property.
66. The Tribunal therefore determined that an order for recovery of possession should be granted in favour of the Applicant.
67. Before making a decision on whether to grant the order, the Tribunal sought the views of both parties on the possibility of delaying execution of the eviction order in terms of rule 16A of the 2017 rules. The Respondent explained that the next few months were the busiest time of year for his business. He had been in the

property for a long time, and may need additional time to organise his belongings and to find suitable alternative accommodation

68. The Respondent said that he needed more time to increase his income in order to find somewhere else. He would ideally like a year, but if that was not possible, he would like to be given as long as possible. The exam period would be over by the end of June, and he would then need another month to pack up his belongings and look for somewhere else to live.

69. The Applicant said that she understood that the Respondent had been in the property for a long time. She said that she would be agreeable to an extension until the end of July.

70. Having taken into account the parties' views, the Tribunal considered that it would be reasonable in all the circumstances to delay execution of the order until 31 July 2026.

Decision

The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the property. The Tribunal delayed execution of the order until 31 July 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.

Sarah O'Neill

Legal Member/Chair

24 March 2026

Date