



**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**

**Chamber Ref: FTS/HPC/EV/25/0966**

**Re: Property at 3 Witholm, Whitehill, Dalkeith, Midlothian, EH22 2QH (“the Property”)**

**Parties:**

**Mr Iain Fraser, 2 Training Drive, Glasgow, G13 1FH (“the Applicant”)**

**Ms Anna Cochran, Mr Andrew Dick, 3 Witholm, Whitehill, Dalkeith, Midlothian, EH22 2QH (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision**

**[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order subject to the condition that it may not be enforced prior to 29 June 2026.**

**Background**

[2] The Applicant seeks an Eviction Order under ground 1 of Schedule 3 of the Act. The Application is accompanied by a copy of the tenancy agreement and the notice to leave with proof of service. The relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 is also produced. The Applicant has produced evidence setting out the reasons for his wish to sell the Property. The Respondents have submitted written representations setting out the basis of their opposition to the Application. The case had called for a Case Management Discussion and thereafter been continued to a Hearing for evidence and submissions to be heard before any final decision.

## **The Hearing**

[3] The Application then called for a Hearing by conference call at 10 am on 12 March 2026. The Applicant was present along with his representative, Ms Capaldi of BKF Solicitors and his two witnesses. The Respondents were personally present.

## **Preliminary matters**

[4] The Tribunal began by ensuring that all parties understood the purpose of the Hearing and how it would be conducted. The Respondents were not prepared to agree to leave the Property and so the Tribunal proceeded on the basis that the Application was opposed. The Tribunal ensured that everyone was familiar with the documentation before it and that there were no outstanding preliminary matters. The Tribunal therefore proceeded to hear evidence from Mr Fraser and his wife, Dr MacKenzie and also a Mr Alexander Lee from Rightmove. The Tribunal also heard from both Respondents. After each party gave evidence, the other had the right to cross-examine. At the conclusion of evidence each party also had the opportunity to make closing submissions.

## **Evidence**

[5] The Tribunal comments on the evidence heard as follows.

*Mr Iain Fraser*

[6] Mr Fraser's evidence was straightforward to understand. He purchased the Property in 2023 and lived in it until he moved in with his then partner and now wife. He rented the Property out from that point. The newly married couple then had two children. Mr Fraser no longer wants to be a landlord and wants out of the sector. He also is concerned about his finances which are strained presently. His wife is on maternity leave and when she returns to work at the end of September, the family will have increased childcare costs. Mr Fraser spoke of his family finances currently running at a deficit. Selling the Property would greatly assist the family finances and reduce the stresses that come with being a landlord.

*Dr Eilidh MacKenzie*

[7] Dr MacKenzie's evidence was in short compass and largely served to corroborate the evidence of her husband. The evidence of both Mr Fraser and Dr MacKenzie was credible and reliable. There concerns appeared valid and there was no obvious basis for questioning their motivations.

*Mr Alexander Lee*

[8] Mr Lee's evidence was similarly narrow in its scope and was to confirm that in his professional experience as a branch manager at Rightmove, attempting to sell the Property with sitting tenants would be extremely risky and likely lead to a greatly diminished sale price.

*The Respondent- Mr Andrew Dick*

[9] Mr Dick explained that his family's principal opposition to the Application is that the family have nowhere else to go. They are a family of seven made up of the two Respondents, an older child aged 24 and then three younger children aged ten-, nine- and seven-year-old twins. The younger children have complex health needs and their schooling is an area of particular concern for the Respondents as the children have special schooling arrangements in place. The Respondents explained that they only moved into the Property in March 2023 and then received the Notice to Leave in October 2024. The Respondents had expressly asked the Applicant whether the let was a long-term let as they did not want to go to all the trouble of moving the children and organising new schools if it was not likely to be a long-term outcome.

[10] Mr Dick described the family as a single income family of limited means. They could not afford private lets in the area and were unable to purchase the Property from the Applicant themselves. As they were a family of seven, the local authority had limited options of providing alternate accommodation of sufficient size to the Respondents in the areas of their choosing. The family were keen to stay in Midlothian as that would allow the children to continue to receive what was described as a Midlothian young carer's award payment.

[11] The Tribunal accepted the Respondents' evidence as being entirely genuinely given. The Respondents were clearly anxious about their future and perhaps rightly frustrated that they had to contemplate moving out after a much shorter tenure of the Property than they might have anticipated.

[12] Parties made closing submissions. Ms Capaldi spoke to the statutory ground of eviction being established and that it was reasonable for an eviction order to be granted. The Respondents did not wish to make closing submissions. But in any event the Tribunal understood their position fully.

[13] Having heard evidence and having considered the documentation, the Tribunal made the following findings in fact.

### **Findings in Fact**

1. *The Applicant let the property to the Respondents by virtue of a Private Residential Tenancy Agreement within the meaning of the Act which commenced in March 2023*

2. *The Applicant now wishes to sell the Property.*
3. *The Applicant competently served a notice to leave dated November 2024 under ground 1 on the Respondents.*
4. *The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003.*
5. *The Respondents' children have significant health needs and organising their schooling needs is far from straightforward. The Respondents are unable to rent privately in the areas of their choosing and are likely to be dependent on the relevant local authority organising alternative accommodation for them.*

## **Reasons for Decision**

[14] Having made the above findings in fact, the Tribunal considered that ground 1 of Schedule 3 of the Act was established. The Tribunal thereafter proceeded to consider the “*reasonableness*” of granting an order.

## **The Reasonableness**

[15] The Tribunal considered the arguments in favour of granting the order. The Tribunal concluded that it was certainly reasonable for the Applicant to wish to sell the Property and cease being a landlord. It was also reasonable to want to sell the Property to alleviate the financial strains affecting the Applicant.

[16] The Tribunal however was cautious as the Respondent had children with health needs and their situation demanded to be treated with respect. The Tribunal was mindful that granting the order may have a profound impact on the Respondents' family life.

[17] In assessing reasonableness, the Tribunal weighed the competing circumstances of both parties. Significant weight was attached to the Applicant's legitimate property rights, including his wish to sell the Property to address his financial position. The Tribunal noted that the Respondents accepted they would not remain in the Property indefinitely and had actively sought alternative accommodation since the Notice to Leave was served over a year ago, with the lack of suitable housing being the main barrier to their moving. While the Tribunal recognised the Respondents' family circumstances and the challenges posed by relocation, it concluded that, when balanced

against the Applicant's established grounds for recovery and his property rights, it was reasonable in all the circumstances to grant the eviction order.

[18] The Tribunal then considered whether the date by which any order could be enforced ought to be delayed. The Tribunal considered that it would be appropriate to allow the Respondents to complete the current school year and then have the benefit of the Summer holidays to consider their schooling options to minimise disruption. The Tribunal therefore considered that the Application should be granted but subject to the provision that the order may not be enforced before 29 June 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.**

Andrew McLaughlin

ANDREW MCLAUGHLIN

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**Legal Member/Chair**

**12 March 2026**

**Date**