

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/25/3535

Re: Property at 4 Ailsa Court, Maddiston, Falkirk, FK2 0LE (“the Property”)

Parties:

Mr Paul Oxton and Mrs Merle Oxton, both 35 Windsor Crescent, Maddiston, Falkirk, FK2 0AH (“the Applicants”) and

Miss Caitlin Riddell and Mr Connor Reid, both 4 Ailsa Court, Maddiston, Falkirk, FK2 0LE (“the Respondents”)

Tribunal Members:

George Clark (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be dismissed.

Background

1. By application dated 15 August 2025 and received by the Tribunal on 18 August 2025, the Applicants sought an Eviction Order against the Respondents under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 1 of Schedule 3 to the 2016 Act, namely that the landlord intends to sell the Property to free up finances.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, which commenced on 27 March 2021 at a rent of £624 per month, and a Notice to Leave dated 7 July 2024 advising the Respondents that an application to the Tribunal under Ground 1 would not be made before 1 October 2024. The Applicants also provided the Tribunal with a copy of an email of 8 July 2024 from Falkirk Homes, estate agents, in which they stated that they understood the Applicants would like to instruct them to sell the Property “after the tenants’ notice period is up by 30th of September”.

3. On 16 February 2026, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 9 March 2026.
4. On 16 February 2026, the Respondents submitted that the Notice to Leave had expired on 7 January 2025, six months after it was served and that, as the application for an Eviction Order was not made until 18 August 2025, the application was incompetent and should be dismissed. On 25 February 2026, the Applicants confirmed that the Notice to Leave period had expired and that a new application would be made in due course, but they did not ask to withdraw the present application.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the morning of 2 April 2026. The Applicants and the Respondents were all present.
6. The Tribunal told the Applicants that it was minded to dismiss the application on the ground that it was made more than six months after the deadline imposed by the 2016 Act. The Applicants responded that there were extenuating circumstances, namely that they had found out after serving the Notice to Leave that the First-named Respondent was pregnant, so they had held off making the application, as it would be extremely difficult in these circumstances for the Respondents to have to go through a process of eviction and rehousing. They also understood that the local authority had advised the Respondents to stay put.
7. The Respondents told the Tribunal that there had been no conversation regarding the situation, and the Applicants had never communicated any of this to them.
8. The Tribunal advised the Parties that there did not appear to be any provision in the 2016 Act which would allow it to accept an out-of-time application on cause shown.

Reasons for Decision

9. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the competency of the application without a Hearing.
10. Section 55 of the 2016 Act provides:

(1) *“A landlord may not make an application to the First-tier Tribunal for an Eviction Order against a tenant using a copy of a Notice to Leave more than*

six months after the day on which the relevant period in relation to that notice expired.

(2) In subsection (1) “the relevant period” has the meaning given in Section 54(2).”

11. Section 54(2) of the 2016 Act states that, where the tenant has been entitled to occupy the let property for more than six months, *“The relevant period in relation to a Notice to Leave – (a) begins on the day the tenant receives the Notice to Leave from the landlord, and (b) expires on the day falling 84 days after it begins.”*

12. The Tribunal advised the Parties that its view was that relevant period under the Notice to Leave in the present case ended on 1 October 2024 and that, as the application had not been received by the Tribunal until 18 August 2025, it fell outwith the deadline specified in Section 55 of the 2016 Act, which would have required the application to be made no later than 31 March 2025. There is no provision in the Act which would allow the Tribunal to entertain a late application on cause shown, so the present application was not competent and must, therefore, be dismissed.

13. The Tribunal’s decision was unanimous.

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.

George Clark

Legal Member/Chair

2 April 2026
Date