



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/25/3896

Re: Property at 10 South College Street, Elgin, IV30 1EP (“the Property”)

Parties:

Mr Edward Craig, 27 Station Road, Llanrwst, LL26 0BT (“the Applicant”)

Miss Yanilsa Mendez, Miss Malvina Mendez, 10 South College Street, Elgin, IV30 1EP (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Janine Green (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction.

Background

1. By application dated 11 September 2025 the applicant seeks an order for eviction relying on ground 1 (Landlord intends to sell the property) in schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Notices to leave with proof of service
 - Letter of engagement from Cluny Estate Agents
 - Notice in terms of section 11 of the Homelessness Etc. (Scotland) Act 2003A case management discussion (“cmd”) was assigned for 16 March 2026

Case management discussion – 16 March 2026- Webex

3. The applicant was represented by Mr Beck, Director, Cluny Estate Agents. The respondents were represented by Mr Melo who also resides in the property. The respondents had emailed the Tribunal on 15 March 2026 to advise that they were unable to attend the cmd and to request that Mr Melo be allowed to represent them.
4. Mr Beck sought an order for eviction. He stated that the applicant had a genuine intention to sell the property. He stated that he intended to sell the property as soon as possible as he was purchasing a new family home. He stated that the applicant had also expressed that he no longer wished to be a landlord.
5. The Tribunal discussed the email that had been received from the respondents on 15 March 2026. In the email they stated that they would be moving out of the property in the first week of April as they had keys for a new property from Moray Council.
6. Mr Melo confirmed that the respondents did not seek to oppose the application as they had been offered alternative accommodation. He stated that both respondents presently resided together with their 3 children. They had been offered 2 separate properties by Moray Council and were waiting to obtain the keys once flooring had been installed. Mr Melo confirmed that he would be residing with the second respondent.

Findings in fact

7. Parties entered into a private residential tenancy agreement with a commencement date of 11 November 2023
8. Valid notices to leave were served on the respondents on 13 June 2025.
9. The applicant has instructed estate agents to sell the property.

10. The applicant has a genuine intention to sell the property.
11. The respondents have obtained alternative accommodation from Moray Council.
12. The respondents do not seek to oppose the application.

Reasons for decision

13. Rule 17 (4) states:

The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

14. Rule 18 states:

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

15. The Tribunal was satisfied that it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

16. Ground 1 states:

(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,

(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.

17. The Tribunal accepted the evidence that the applicant intended to sell the property. This was not disputed by the respondents.

18. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against.

19. The Tribunal gave significant weight to the fact that respondents had both obtained alternative permanent accommodation and did not seek to oppose the application. In light of the lack of opposition to the application the Tribunal determined that on balance it was reasonable to grant an order.

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.

Mary-Claire Kelly

Legal Member/Chair

16 March 2026

Date