



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/4403

Re: Property at 5A Castle Street, Crail, KY10 3SH (“the Property”)

Parties:

Mr James Aird, Mrs Winsome Aird, The Coach House, Falfield, Peat Inn, KY15 5LJ (“the Applicants”)

Mr Kristopher Park, 5A Castle Street, Crail, KY10 3SH (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of paragraph 3 of schedule 3 of the 2016 Act are met in this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

In terms of section 51(4) of the 2016 Act the private residential tenancy between the parties will end on 19 June 2026.

Background

- 1 This is an application for an eviction order under section 51 of the 2016 Act and rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicants relied upon ground 3 as the ground for eviction, stating that they intended to refurbish the property.
- 2 The application was accepted as valid and referred to a tribunal for determination. A case management discussion (“CMD”) was scheduled to take place by teleconference on 19 May 2026 at 10am. The Tribunal gave notice of the CMD to the parties in accordance with rule 17(2) of the Rules. Said notice

was served upon the Respondent by sheriff officers on 16 April 2026 and required the Respondent to make written representations in response to the application no later than 6 May 2026. No written representations were received from the Respondent.

The CMD

- 3 The CMD took place by teleconference on 19 May 2026 at 10am. Mr Calvin Gordon of Thorntons Solicitors represented the Applicants. Mr James Aird was also on the call along with his son as a supporter.
- 4 The Respondent did not join the call. The tribunal noted that he had been given proper notice of the CMD under rule 17(2) of the Rules and had provided no explanation for his absence. The tribunal therefore delayed the start of the CMD for a short period before determining to proceed in his absence.
- 5 The tribunal had the following documents before it:-
 - (i) Form E application form;
 - (ii) Sasine Search Sheet confirming the Applicants' ownership of the property and proof of their landlord registration;
 - (iii) Private residential tenancy agreement between the parties;
 - (iv) Notice to leave and proof of delivery to the Respondent by sheriff officers;
 - (v) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 ("section 11 notice) and proof of delivery to the local authority; and
 - (vi) Affidavit by Ms Patricia MacKenzie.
- 6 The tribunal heard submissions from Mr Gordon on the application. The following is a summary of the key elements of the submissions.
- 7 The Applicants sought an eviction order on the basis that they wish to refurbish the property. It is in a poor state. It requires substantial work, including new windows, kitchen, bathroom and redecoration, and there will likely be other ancillary works that arise. It would not be practicable for the Respondent to remain in the property whilst the works are being carried out. Ground 3 is a no-fault ground therefore the Respondent would not be found to be intentionally homeless by the local authority. The Respondent is not presently cooperating in allowing access to the property. Mr Gordon wrote to him on 9 October 2025 requesting access for a gas safety check but he did not respond.
- 8 In response to questions from the tribunal, Mr Gordon explained that the property is a two bedroom flat. The Applicants intend to re-let the property once refurbished. The Applicants have a rental portfolio of around 15 properties, including two other flats in the same building as this property. The Applicants wish to upgrade the windows in those flats but this property will require more substantial works. The Respondent is believed to be in his thirties. He has no known health issues or vulnerabilities and is believed to live alone. His rent is up to date. Mr Gordon was not aware of any contact the Respondent has made with the local authority as the Respondent's engagement has been poor.

- 9 The tribunal adjourned the CMD to deliberate, at which point Mr Gordon left the call, before resuming the discussion and confirming the outcome.

Findings in fact and law

- 10 The Applicants are the owners and landlords, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement, which commenced on 8 January 2018.
- 11 The Applicants have sent the Respondent a notice to leave as defined by section 62 of the 2016 Act. The notice to leave was served upon the Respondent by sheriff officers on 30 April 2025 and stated that an application would not be submitted to the Tribunal before 24 July 2025.
- 12 The Applicants have sent the local authority a section 11 notice as required by section 56 of the 2016 Act at the time of making this application.
- 13 The Applicants are 82 years old. The Applicants have a rental portfolio of fourteen properties. The Applicants are assisted in the management of their properties by Ms Patricia MacKenzie, an employee of the firm of James Aird and Sons.
- 14 The Applicants intend to refurbish the property. The property is in a poor condition. The proposed works include the installation of new windows, a new kitchen, a new bathroom, and redecoration. The proposed works would be significantly disruptive to any occupants of the property.
- 15 The refurbishment will be carried out by James Aird and Sons.
- 16 It would be impractical for the Respondent to continue to occupy the property whilst the works are carried out due to the extensive nature of the refurbishment.
- 17 The Respondent is believed to be in his thirties and resides in the property alone. The Respondent has no known health issues or vulnerabilities. The rent account is up to date.
- 18 It is reasonable to make an eviction order.

Reasons for decision

- 19 The tribunal was satisfied it had sufficient information before it to make relevant findings in fact and reach a decision on the application having considered all of the documentary evidence and the oral submissions from Mr Gordon at the CMD. The tribunal determined that to do so would not be contrary to the interests of the parties in this case. The Respondent had been given the opportunity to respond to the application and participate in the CMD but had chosen not to do so.

20 The tribunal considered the wording of section 51:-

“51 First-tier Tribunal's power to issue an eviction order

(1)The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

(2)The provisions of schedule 3 stating the circumstances in which the Tribunal may... find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.

(3)The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.

(4)An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.”

21 Section 52 of the 2016 Act goes on to state that “*an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant.*” The tribunal had before it a copy of a notice to leave that had been delivered to the Respondent by sheriff officers. The tribunal was also satisfied that the Applicants had sent a section 11 notice to the local authority in accordance with the requirements of section 56 of the 2016 Act.

22 The tribunal considered ground 3 of schedule 3 of the 2016 Act:-

“Landlord intends to refurbish

(1)It is an eviction ground that the landlord intends to carry out significantly disruptive works to, or in relation to, the let property.

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

(a)the landlord intends to refurbish the let property (or any premises of which the let property forms part),

(b)the landlord is entitled to do so,...

(c)it would be impracticable for the tenant to continue to occupy the property given the nature of the refurbishment intended by the landlord, and

(d)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)(a) includes (for example)—

(a)any planning permission which the intended refurbishment would require,

(b)a contract between the landlord and an architect or a builder which concerns the intended refurbishment.”

23 The tribunal accepted the documentary evidence and submissions from Mr Gordon which were clear and consistent. There was no contradictory evidence before the tribunal.

- 24 The tribunal therefore determined that the Applicants intend to refurbish the property and are entitled to do so as the registered owners. The tribunal was further satisfied that, given the nature of the refurbishment which would involve significantly disruptive works to the property, it would be impracticable for the Respondent to continue to reside there whilst the refurbishment is carried out.
- 25 The tribunal went on to consider whether it was reasonable to make an eviction order on account of the facts in this case, which requires the tribunal to identify those factors relevant to reasonableness and determine what weight should be applied to them.
- 26 The tribunal gave weight to the Applicants' circumstances and their property rights which entitle them to carry out such works to the property as they see fit. The tribunal accepted that the property is in a poor condition and requires significant refurbishment. The Applicants are experienced landlords, with a portfolio of around 15 properties, and it was understandable that they would have concerns about the condition of their property given their responsibilities in terms of ensuring any properties they let are in a reasonable state of repair.
- 27 The tribunal carefully considered the Respondent's circumstances. The information before the tribunal was limited on this issue as the Respondent had chosen not to participate in the proceedings. The tribunal therefore accepted the submissions from Mr Gordon on these matters. There are no known dependents residing with the Respondent who would be at risk of eviction. The Respondent has no known health issues or vulnerabilities. The tribunal also considered the fact that the Respondent had not opposed the application as significant when considering reasonableness in this case, and the tribunal was aware that the local authority would have a duty to provide the Respondent with advice and assistance should an eviction order be granted.
- 28 Accordingly, having considered those factors relevant to reasonableness, the tribunal concluded that the balance weighed in favour of making an eviction order.
- 29 The tribunal therefore concluded that the provisions of paragraph 3 of schedule 3 of the 2016 Act have been met in this case.
- 30 The decision of the tribunal 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.

R. O'Hare

19 May 2026

Legal Member/Chair

Date