



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/25/4128

Re: Property at 23 Robert Smith Court, Lumphinnans, KY4 8AE (“the Property”)

Parties:

Mrs Aileen Johnson, The Farmhouse, Kippendavie Mains, Dunblane, FK15 0HY (“the Applicant”)

Ms Keira Telford, 23 Robert Smith Court, Lumphinnans, KY4 8AE (“the Respondent”)

Tribunal Members:

Craig Chisholm (Legal Member) and Melanie Booth (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant.

Background

1. By application dated 26th September 2025, The Applicant sought an order in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (procedure) Regulations 2017 (“the procedure rules”) and Section 51 and Ground 1 and 12 of schedule 3 of the 2016 Act. A section 11 notice, Tenancy Agreement, Notice to Leave (NTL) and evidence of the intention to sell were lodged with the application. A letter from the joint owner, Malcolm Johnson was lodged consenting to the application.
2. On 18th November 2025 the application was accepted by the tribunal and referred for determination by the tribunal.
3. A Case Management Discussion (CMD) was set to take place on 1st May 2026, and appropriate intimation of that hearing was given to all parties.

The Case Management Discussion

4. The CMD took place on 1st May 2026 *via* telephone conference call. The Applicant was personally present. The Respondent was not present or represented at the CMD.
5. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
6. The tribunal asked various questions of the Applicant with regards to the application.
7. The Applicant's representative confirmed that the Applicant wished for the order for payment to be made.

Findings in Fact

8. The Applicant is the registered owner of the Property.
9. The Applicant is the registered Landlord of the Property.
10. The Applicant the Respondent are respectively the landlord and tenant who entered into a Private Residential Tenancy Agreement in terms of the 2016 Act for the Property commencing 20th February 2023.
11. The Applicant served a Notice to Leave (NTL) on the Respondent's on 1st May 2025 as required by the 2016 Act. This was served *via* email. The NTL informed the Respondent that they wished to seek recovery of possession. The NTL was correctly drafted and gave appropriate periods of notice as required by law.
12. The NTL set out one of the grounds contained within Schedule 3 of the 2016 Act, namely ground 1 (that the Landlord intends to sell the Property); ground 12 (that the tenant had been in arrears of rent for three or more consecutive months). Arrears at the date of service of the NTL were £1,103.00.
13. The initial agreed monthly rental was £390 per month. It had purportedly been increased every year, however, no evidence was before the Tribunal to assert whether any rent increase was valid.
14. The Applicant intends to sell the Property as her and her husband are both retired and require to the funds.
15. The Applicant arranged for two Estate Agents to view the property to provide a valuation of the market value of the Property.

16. The Applicant is entitled to sell the property for market value and intends to do within three months of the Respondent seeking to occupy it.

17. The basis for the order for possession on ground 1 was thus established.

Reason for Decision

18. The order for possession sought by the Applicant was based on grounds specified in the 2016 Act and properly narrated in the NTL served on the Respondent. The Tribunal was satisfied the NTL had been served in accordance with the terms of the 2016 Act and the Applicant was entitled to seek recovery of possession based on the grounds used.

19. The application to the tribunal was made after the expiry of the notice period in the NTL.

20. The Tribunal was satisfied the Applicant complied with section 56 of the 2016 Act.

21. Ground 1 of schedule 3 (as amended) of the 2016 Act 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 subparagraph (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.

22. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Applicant intends to sell the Property and that part 1 of ground 1 is established.

23. In considering whether it would be reasonable to grant the order, the Tribunal accepted the evidence presented on behalf of the Applicant with regards to their intention to sell the Property for market value within three months of the Respondent ceasing to occupy it. The Applicant told the Tribunal they had purchased the Property from a family member in 2019 and had not intended to keep the Property as long as they had. They now wished to sell it to release the equity. The Applicant advised this Property was their only rental Property and they no longer wished to be a landlord. The Tribunal accepted the unchallenged evidence from the Applicant that the Respondent was in rent arrears. The Applicant had advised that the Respondent was in receipt of benefits but there was a shortfall of around £55 per month. The Applicant advised the Respondent was working during the tenancy; however, the Respondent had lost her employment and rent was now being paid by way of benefits.

24. The Tribunal accepted the unchallenged evidence of the Applicant and was satisfied that the Respondent has been in arrears for a period in excess of three consecutive months. The Tribunal accepted evidence that Applicant, had made appropriate attempts to encourage the Respondent to deal with the arrears with payment plans offered, agreed and not complied with.
25. The Tribunal considers the Applicant has complied with the requirements of the 2016 Act and that ground 1 and 12 of Schedule 3 of the 2016 Act has been established. For the reasons outlined above and below, the Tribunal were satisfied it would be reasonable to grant the order for eviction.

Decision

26. The ground for eviction based on the landlord intending to sell the property and rent arrears was accordingly established.
27. The Tribunal has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant. This is confirmed by one of the leading English cases, *Cumming v Danson*, [1942 2 All ER 653 at 655, where Lord Green MR said:

“In considering reasonableness... it is, on my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusions given such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account.”

28. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
29. In this case, the Tribunal finds that it is reasonable to grant the order. The balance of reasonableness in this case is weighted towards the Applicant in this application for the above reasoning.

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.

Craig Chisholm

1st May 2026

Legal Member/Chair

Date