



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/25/3528

Property: Sunnyside, Freefield, Bridge-End, Burra, Shetland ZE2 9LD ("Property")

Parties:

Arlene Robertson, Willowburn, Bridge End, Burra, Shetland ZE2 9LE, Wilbert Robertson, Shalimar, Bridge-End, Burra, Shetland ZE2 9LD, Keith Robertson, Picking shed, Voe Delting, Shetland, David Robertson, 1 Kanderstead Road, Lerwick, Shetland ("Applicants")

Melvyn Heath, Sunnyside, Freefield, Bridge-End, Burra, Shetland ZE2 9LD ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined to make an order for possession of the Property.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 17 May 2025 ("Notice to Leave"); notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email and will of the late Aileen Robertson. In a written submission the Applicant told the Tribunal that there was no written tenancy agreement, that the late Aileen Robertson granted the tenancy in favour of the Respondent, that it commenced on 1 February 2022 and that the notice to leave was delivered by hand on 17 May 2025. A Case Management Discussion ("CMD") was fixed for 16 April 2026. The Application was served on the Respondent by sheriff officer on 5 March 2026.

Case Management Discussion (“CMD”)

A CMD took place before the Tribunal on 16 April 2026 by teleconference. Each of the Applicants were in attendance as was the Respondent.

Arlene Robertson told the Tribunal that the title to the Property had been held by the Mother of the Applicants and she had transferred title to them in 2015. She said that her Mother, Aileen Robertson, managed the Property and entered into the tenancy of the Property with the Respondent verbally. She said that the tenancy commenced on 1 February 2022 and that the rent was £550 per month. The Respondent said that he agreed with that summary of the position. Ms Robertson said that the Applicants intend to sell the Property as soon as vacant possession is obtained. Ms Robertson told the Tribunal that she delivered the notice to leave to the Respondent personally on 17 May 2025. The Respondent confirmed that was correct.

The Respondent told the Tribunal that he did not oppose the application. He said that he is aged 70, he lives in the Property alone and is retired. He said that he has no significant health issues. He told the Tribunal that he had been in touch with the local authority about alternative housing but nothing suitable was available. He said he was also in touch with housing associations and was keeping an eye on the private rented sector but there is limited availability. The Respondent said that it would assist him if the order for eviction could be delayed for a period of 7 days. Ms Robertson said she had no difficulty with that.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Respondent entered into a Tenancy Agreement with the late Aileen Robertson on behalf of the Applicants which commenced on 1 February 2022.
2. A Notice to Leave was served on the Respondent by hand delivery on 17 May 2025. It stated that an application for an eviction order would not be submitted to the Tribunal before 10 August 2025.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
4. The Applicants intend to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

Findings in Fact and Law

1. It is reasonable to grant an order for possession of the Property.

Reasons for the Decision

In terms of section 51 of the Act, the 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. In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell the Property. The evidence lodged with the application of intention to sell was the will of the late Aileen Robertson which directed that the Property was to be sold.

The Tribunal considered the question of reasonableness. In all the circumstances, and in the absence of opposition from the Respondent, the Tribunal determined that it was reasonable to grant an order for possession of the Property.

Decision

The Tribunal determined to grant an order for possession of the Property.

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.

Joan Devine

Legal Member

Date : 16 April 2026