



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/25/2144

Re: Property at Cara, Quarry Road, Locharbriggs, Dumfries, DG1 1QG (“the Property”)

Parties:

KBA Homes Ltd, 10 Townhead Gardens, Collin, Dumfries, DG1 4GE (“the Applicant”)

Miss Denise Thomson, Cara, Quarry Road, Locharbriggs, Dumfries, DG1 1QG (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Angus Lamont (Ordinary Member)

Decision

At the Case Management Discussion (“CMD”) which took place by telephone conference on 23 April 2026 the Applicant was represented by Mr Richardv Arkless. The Respondent was not present but was represented by her husband, Mr Stephen Thomson.

Prior to the CMD the Tribunal received from the Applicant an email dated 22 April 2026.

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

The Tribunal noted the following background:-

- i. The Applicant is the heritable proprietor of the Property.
- ii. The application concerns a Private Residential Tenancy (“PRT”) entered into between the Shaun Cameron and the Respondent relative to the Property that commenced on 9 July 2018.
- iii. Shaun Cameron was formerly a Director of the Applicant. The Applicant is the Landlord in terms of the PRT.
- iv. On 10 September 2024, the Applicant served on the Respondent a Notice to Leave dated 7 September 2024 requiring the Respondent remove from the Property by 6

December 2024 on the basis of Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").

- v. The Applicant has served on Dumfries & Galloway Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

In response to questions from the Tribunal Mr Arkless made the following oral representations for the Applicant:-

- i. By way of background as to the reason for the Applicant's intention to sell the Property, the Applicant has an interest only mortgage across it's portfolio. The interest rate is very high. The Applicant has been struggling to meet repayments on the loan. The Applicant intends to refinance the portfolio at a much lower rate of interest and in exchange for the lender's forbearance with the Applicant, the Applicant requires to sell 2 or 3 properties within the portfolio, of which the Property is one. There are 40 – 50 properties within the portfolio as a whole. The lender has not prescribed which properties require to be sold. The Property is next to another property relative to which Tribunal proceedings have also been raised and in which a CMD has taken place and the tenant has moved out.
- ii. Work requires to be done to the Property before it goes on the market.
- iii. The selling agent is Nicola Whannel of Exp UK who has also dealt with the property next door.
- iv. Mr Arkless did not have instructions as to why the Property had been chosen to sell.
- v. The Respondent has paid rent diligently until 7 months ago which is around the time these proceedings were raised. The Respondent said works needed done and these were passed to the Applicant. The Respondent complained of no response but could have simply attended the property next door where works were being done by the Applicant.
- vi. There were no rent arrears when the application to the Tribunal was made.
- vii. Given there is no agreement for the Respondent to remove an order for her eviction is sought.

In response to questions from the Tribunal Mr Thomson made the following oral representations for the Respondent:-

- i. An offer for alternative accommodation in Lockerbie has been verbally accepted subject to a reference from the Applicant which has not been provided. The property is empty.
- ii. Mr Thomson and the Respondent have been upfront and honest with their potential new landlord and have told them rent due to the Applicant for the Property has been withheld due to them not being able to lock the door for the last 2 years, due to tiles being missing from the roof and due to fences being down. The Applicant did service and then change the boiler.
- iii. Despite being next door the Applicant did not attend the Property about the items of maintenance required.
- iv. Mr Thomson and the Respondent stay in the Property. Their grand-daughters stay 2 nights each week. They are 2 and 7 years of age.
- v. If they are evicted homeless accommodation would be provided at the Station Hotel where guests are not allowed.
- vi. They want to move due to the repairs required at the Property.
- vii. They are on the housing list with the local authority but there is a lack of properties.
- viii. Mr Thomson and The Respondent could offer their proposed new landlord a Guarantor if required.

- ix. The suspension of any order for eviction would be helpful. A three month suspension would provide a safety net but they would likely find somewhere before that.
- x. The Respondent is not opposing the eviction order. She just needs time.

Mr Arkless for the Applicant made the following additional submissions in reply:-

- i. He recognises the rent arrears are not part of the application.
- ii. In that the Respondent and Mr Thomson require a reference from the Applicant, such a reference would be provided if the arrears are paid and the Applicant may be prepared not to insist on payment of all the arrears.
- iii. The list of jobs is superfluous.
- iv. The Applicant is willing to undertake the jobs over the next few days.

The Tribunal adjourned to consider the parties' positions.

Findings in Fact

The Tribunal made the following findings in fact:-

- i. The Applicant is the heritable proprietor of the Property.
- ii. The application concerns a PRT entered into between the Shaun Cameron and the Respondent relative to the Property that commenced on 9 July 2018.
- iii. Shaun Cameron was formerly a Director of the Applicant.
- iv. The Applicant is the Landlord in terms of the PRT.
- v. On 10 September 2024, the Applicant served on the Respondent a Notice to Leave dated 7 September 2024 requiring the Respondent remove from the Property by 6 December 2024 on the basis of Ground 1 of Schedule 3 of the 2016 Act.
- vi. The Applicant has served on Dumfries & Galloway Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- vii. The Applicant has an interest only mortgage across its portfolio. The interest rate is very high. The Applicant has been struggling to meet repayments on the loan. The Applicant intends to refinance the portfolio at a much lower rate of interest and in exchange for the lender's forbearance with the Applicant, the Applicant requires to sell 2 or 3 properties within the portfolio, of which the Property is one. There are 40 – 50 properties within the portfolio as a whole. The lender has not prescribed which properties require to be sold. The Property is next to another property relative to which Tribunal proceedings have also been raised and in which a CMD has taken place and the tenant has moved out.
- viii. Work requires to be done to the Property before it goes on the market.
- ix. The selling agent for the Property is Nicola Whannel of Exp UK who has also dealt with the property next door.
- x. The email of 25 November 2025 from the selling agent, Nicola Whannel of Exp UK, attaching a copy of a prior email to Victor Singh, a Director of the Applicant regarding the sale of the Property is sufficient to meet the terms of sub-paragraph 2(b) of Ground 1 of Schedule 3 of the 2016 Act.
- xi. The Respondent and her husband have made an offer for alternative accommodation in Lockerbie which has been verbally accepted subject to a reference from the Applicant which has not been provided. The property is empty.
- xii. Mr Thomson and the Respondent stay in the Property. Their grand-daughters stay 2 nights each week. They are 2 and 7 years of age.
- xiii. The Respondent and her husband want to remove from the Property.

Reasons for decision

There were no material disputed matters of fact between the parties.

The application proceeds upon Grounds 1 of Schedule 3 of the 2016 Act.

Ground 1 of Schedule 3 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 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."

The Applicant is entitled to sell the Property in terms of sub-paragraph 2(a), being the heritable proprietor thereof.

Sub-paragraph 2(b) requires that the Applicant intends to sell the Property for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it. Sub-paragraph 3 gives examples of the evidence that might be produced to show the landlord has the intention described in sub-paragraph 2(b). In this instance the Applicant relies upon an email of 25 November 2025 from the selling agent, Nicola Whannel of Exp UK, attaching a copy of a prior email to Victor Singh, a Director of the Applicant regarding the sale of the Property. The Tribunal accepts this document as sufficient to meet the terms of sub-paragraph 2(b).

The Tribunal also requires to be satisfied that it is reasonable to issue an eviction order in terms of sub-paragraph 2(c). The Respondent's husband stated in terms that there is no opposition to an eviction order being granted, simply that further time is needed to remove. No suggestion was made on behalf of the Respondent that the granting of an eviction order was not reasonable.

Issues of rent arrears and repairs are not relevant to this application.

The Respondent and Mr Thomson have secured an offer of alternative accommodation in the private sector. That accommodation is empty and available subject to a satisfactory reference being provided by the Applicant.

On that basis the Tribunal granted an eviction order in terms of Ground 1 of Schedule 3 of the 2016 Act.

Having reached the decision to grant an eviction order the Tribunal carefully considered whether to delay the execution of the eviction order in terms of Rule 16A(d) of the First-tier Tribunal Housing and Property Chamber Rules of Procedure 2017.

The Tribunal concluded that as there is no real urgency for the Applicant to sell the Property, it is reasonable to provide the Respondent with an extended period of time to resolve the issue of a reference or agree the provision of a Guarantor and to remove to alternative accommodation. Accordingly, the Tribunal determined that the enforcement of the eviction order should be suspended by a period of 2 months.

Decision

The Tribunal granted an eviction order against the Respondent in favour of the Applicant in terms of Ground 1 of Schedule 3 of the 2016 Act with execution of that order being delayed for 2 months.

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.

G.Buchanan

Legal Member/Chair

23 April 2026
Date