



**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/25/0876**

**Re: Property at 54 Woodhall Avenue, Calderbank, Airdrie, ML6 9SS (“the Property”)**

**Parties:**

**Mr Gerard McAdam, 1/1 56 Carmunock Road, Mount Florida, Glasgow, G44 4TB (“the Applicant”)**

**Miss Kerry Bergin, 54 Woodhall Avenue, Calderbank, Airdrie, ML6 9SS (“the Respondent”)**

**Tribunal Members:**

**James Bauld (Legal Member) and Angus Lamont (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted**

**Background**

1. By application dated 17 February 2025, the applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 24 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 7 May 2026, and appropriate intimation of that hearing was given to both the landlord and the tenants.

### **The Case Management Discussion**

4. The Case Management Discussion took place on 7 May 2026. The applicant and the respondent were both present.
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 parties with regard to the application
7. The respondent confirmed that she was not opposed to the order being granted. The applicant confirmed that he wished the order sought to be granted.

### **Findings in fact**

8. The applicant and respondents as respectively the landlord and tenant entered into a tenancy of the property which commenced on 30 November 2018
9. The tenancy was a private residential tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016. ("the Act")
10. The agreed rental was £495 per month.
11. On 9 February 2025 the applicant served upon the tenants a Notice to Leave as required by the Act. The Notice became effective on 7 May 2025
12. The notice informed the respondents that the landlord wished to seek recovery of possession using the provisions of the Act.
13. The notice was correctly drafted and gave appropriate periods of notice as required by law.
14. The notice set out a ground contained within schedule 3 of the Act, namely ground 1 that the landlord intended to sell the let property

### **Reasons for the decision**

15. The order for possession was sought by the landlord on a ground specified in the act and properly narrated in the notice served upon the tenant.

16. The tribunal was satisfied that the notice had been served in accordance with the terms of the act and that the landlord was entitled to seek recovery of possession based upon that ground.
17. The tribunal accepted the unchallenged evidence of the landlord that they intend to sell the property. The applicant indicated that he was now seeking to retire and no longer wishes to be a landlord. In the last year he has suffered bereavement and significant health problems. He is 71 years of age
18. The tribunal accepted the evidence that the tenant does not oppose the granting of the order. She indicated that she occupied the property along with her son who is aged 24. She has already approached the local council and has been informed that assistance in finding an alternative property will only be when an eviction order is granted. The respondent stated that she and her son have certain ongoing health issues.
19. The ground for eviction was accordingly established.
20. The ground for eviction under which this application was made is the ground contained in paragraph 1 of schedule 3 of the 2016 Act. The ground is that the landlord intends to sell the let property. When the 2016 Act was originally passed, that ground of eviction was mandatory. The tribunal was required by law to grant the eviction order if satisfied that the ground was established.
21. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on this ground can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact
22. 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.
23. The Tribunal now 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. 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. This is confirmed by one of the leading English cases, **Cumming v Danson**, ([1942] 2 All ER 653 at 655) in which Lord Greene MR said, in an oft-quoted passage:

***“[I]n considering reasonableness ... it is, in 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 conclusion giving 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”.***

24. The tribunal finds that it is reasonable to grant the order.
25. The tribunal accepts that the landlord is entitled to sell the property and wishes to do so. The tribunal accepts that the tenant is not opposed to the order being granted. She has sought assistance from the local council to obtain alternative accommodation which is suitable. She has been told that she will not obtain that assistance unless an eviction order is granted thus triggering specific statutory duties under the Housing (Scotland) Act 1987. The granting of the order will therefore ultimately (and almost counter intuitively) benefit the tenant in her attempts to obtain suitable alternative accommodation.
26. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that the final order should be made at the CMD

### **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.**

**Mr Jim Bauld**

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**Legal Member/Chair**

**7 May 2026**

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**Date**