



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/25/4640

Re: Property at 34 Moir Avenue, Musselburgh, EH21 8EG (“the Property”)

Parties:

Mr James Nunn and Mrs Alana Nunn, 30 Moir Avenue, Musselburgh, East Lothian, EH21 8EG; 30 Moir Avenue, Musselburgh, East Lothian, EH21 8EG (“the Applicant”)

Mr Thomas Rowan and Mrs Paula Rowan, 34 Moir Avenue, Musselburgh, EH21 8EG; 34 Moir Avenue, Musselburgh, EH21 8EG (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member) and Frances Wood (Ordinary Member) (“the tribunal”)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application be granted and that an eviction order be granted.

Background

1. On 29 October 2025 the Applicants submitted an application to the First-tier Tribunal for Scotland seeking an order of eviction.
2. On 9 December 2025, the application was accepted for determination by the Tribunal.
3. A case management discussion was held by audio conference on 19 May 2026.

The case management discussion

4. The Applicants were present.
5. The Respondents were not present.
6. It was noted that details of the case management discussion had been intimated to the Respondents by Sheriff Officer on 21 April 2026 and the tribunal determined that the case management discussion should continue in their absence.
7. The Legal Member explained the purpose of a case management discussion. The Applicants invited the tribunal to determine the matter without a Hearing and to issue an eviction order under Rule 101 of the Tribunal Rules on the grounds that the conditions set out in Ground 3, Part 3 of Schedule 3 of the 2016 Act have been met.

8. Findings in Fact

- (i) The Applicant and the Respondent entered into a private residential tenancy agreement in respect of the Property on 1 July 2025.
- (ii) The private residential tenancy commenced on 3 July 2025.
- (iii) Prior to the commencement of the private residential tenancy agreement, the Respondents had been parties to an assured tenancy agreement in respect of the Property and had resided in it since 2008.
- (iv) The monthly rent due under the private residential tenancy is £900.
- (v) The Applicants intend to carry out extensive refurbishment works to the Property.

9. Findings in Fact and Law

- (i) The Applicants intend to carry out significantly disruptive works to the Property and it would be impractical for the tenant to continue to occupy the Property given the nature of the works.
- (ii) It is reasonable to issue an eviction order.

10. Documents before Tribunal

- (i) Private residential tenancy agreement dated 1 July 2025.
- (ii) Copy Notice to Leave dated 1 August 2025.
- (iii) Copy Section 11 intimation to the local authority dated 28 October 2025.

11. The Law

Section 51 of the 2016 Act:

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 or must 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.

Ground 3, Part 3 of Schedule 3 of the 2016 Act

Landlord intends to refurbish

3 (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.

Respective position of the parties in relation to Ground 3

12. The position of the Respondents was unknown since they had not submitted representations or participated in the case management discussion.
13. Mr Nunn said that he and his wife had purchased the Property in July 2025. He said that the Respondents had been tenants in the Property since 2008. Mr Nunn said that when he inspected the Property after the purchase, the Respondents made him aware of some repairs issues which had been outstanding for many months and he said that he had immediately carried out repairs to make the Property safe.
14. Mr Nunn said that when he and his wife purchased the Property, it had been their intention to carry out refurbishment works and had understood that the Respondents intended to move out. He said that the Respondents had advised him that they had sought assistance with housing from East Lothian Council and had been told that this would not be able to be progressed until an order of eviction had been granted.
15. Mr Nunn advised that the Property is a three bedroom end terraced house with one bathroom, situated on the ground floor.
16. Mr Nunn referred the tribunal to the inspection report dated 21 July 2025 which had been submitted. He said that the photographs contained within the report show the condition of the Property.
17. Mr Nunn said that the intention is that the Property will be extensively upgraded and repaired, including replacement of the bathroom and kitchen, and renewal of the plumbing, heating and electrical systems. He also referred to dampness issues, replacement of woodwork and doors, plasterwork and redecoration.
18. Mr Nunn said that the Respondents effectively live in one room because of the condition of the Property and the quantity of belongings which they have in it. He said that he did not consider that the Property presently meets the repairing standard as required by the Housing (Scotland) Act 2006. He said that he intends to relet the Property once works have been completed and that it is currently not in a condition suitable for a tenancy.
19. Mr Nunn said that the proposed works would be too extensive and disruptive to be carried out while the Respondents continued to reside in the Property.
20. The Applicants were referred to Ground 3 (3). Mr Nunn said that he had no estimates, quotations or contracts regarding the intended refurbishment. He explained that he was a plumber and intended to carry out the work himself with the assistance of tradespeople contacts which he has.

Reasonableness

21. Mr Nunn said that the Respondents are in their fifties and reside in the Property on their own. He said that they do not work and that he is unaware of any health issues that either of them may have.
22. Mr Nunn said that the Respondents paid rent on time.
23. Mr Nunn said that the Respondents had told him that, once an order of eviction has been granted, they can progress their application for housing with the local authority.
24. Mr Nunn submitted that the Property was not in a good condition and that he required to recover possession to do the work necessary to bring it to an appropriate standard.

Reasons for Decision

25. The tribunal saw no reason for determination of the application to be continued to a Hearing.
26. The tribunal was satisfied that the Notice to Leave was in appropriate terms and had been served on the Respondent. The tribunal was satisfied that the appropriate notice had been served on the local authority under the Homelessness etc (Scotland) Act 2003.
27. The tribunal accepted that the Applicants intend to carry out extensive refurbishment works to the Property and that these cannot be done without them recovering possession of it. It accepted that the proposed works could not, in practical terms, be carried out while the Respondents continue to reside in the Property. In coming to its determination, the tribunal was assisted by the inspection report submitted by the Applicants.
28. The tribunal required to consider whether or not the granting of an order of eviction was reasonable. It is a matter of judicial discretion and, in considering reasonableness, a balancing exercise requires to be undertaken.
29. The Respondents had not engaged in the Tribunal process.
30. The tribunal determined that it was reasonable for the Applicants to recover the Property to carry out extensive works to bring it up to a tenable standard.

Decision

31. The tribunal determined that the application be granted and that an eviction order be made.

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.

Martin McAllister

**Martin J. McAllister
Legal Member
19 May 2026**