



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/25/3756

Re: Property at 22 Leuchlands Drive,, Aberdeen, AB23 8JU (“the Property”)

Parties:

Mr Adam Benjamin Brain, Mrs Claire Elizabeth Walsh, 1608 Pairc Mhuire Newbridge, Co Kildar, Republic of Ireland, W12 P684, Ireland (“the Applicants”)

Mrs Chelsea McKinnon, Mr Danny McKinnon, 22 Leuchlands Drive,, Aberdeen, AB23 8JU (“the Respondents”)

Tribunal Members:

Shirley Evans (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondents for possession of the Property at 22 Leuchlands Drive,, Aberdeen, AB23 8JU under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicants after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondents. The order will include a power to Officers of Court to eject the Respondents and family, servants, dependants, employees, and others together with their goods, gear and whole belongings furth and from the Property and to make the same void and redd that the Applicants or others in their name may enter thereon and peaceably possess and enjoy the same.

Background

- 1. This is an application for eviction for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The Applicants’ case is**

based on Ground 1 (Landlord intends to sell the Property) of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

2. The application was accompanied by a Private Residential Tenancy Agreement commencing 1 November 2022, a Notice to Leave dated 10 April 2025 with Recorded Delivery letter from Burnett & Reid LLP, a track and trace receipt dated 12 April 2025, a letter from Aberdeen City Council dated 27 April 2021, a copy Title Plan and Title Sheet for 22 Leuchlands Drive, Bridge of Don, Aberdeen, a Property Schedule, a Home Report, a Letter of Engagement from Burnett & Reid LLP, an email exchange with Burnett & Reid LLP, an email exchange with Aberdeen City Council, an email to Aberdeen City Council dated 1 September 2025 and a Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with an email to Aberdeen City Council dated 1 September 2025.
3. On 21 February 2026 the Tribunal issued a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 15 April 2026. This paperwork was served on the Respondent by Roger Ewan, Sheriff Officer, Aberdeen on 26 February 2026 and the Certificate of Intimation was received by the Tribunal administration.

Case Management Discussion

4. The Tribunal proceeded with the CMD on 15 April 2026. Mr Taylor from Burnett & Reid LLP, Solicitors appeared on behalf of the Applicant. Mr and Mrs McKinnon both appeared with Mrs McKinnon electing to speak for them both.
5. The Tribunal had before it the Private Residential Tenancy Agreement commencing 1 November 2022, the Notice to Leave dated 10 April 2025 with Recorded Delivery letter from Burnett & Reid LLP, the track and trace receipt dated 12 April 2025, the letter from Aberdeen City Council dated 27 April 2021, the copy Title Plan and Title Sheet for 22 Leuchlands Drive, Bridge of Don, Aberdeen, a Property Schedule, a Home Report, the Letter of Engagement from Burnett & Reid LLP, the email exchange with Burnett & Reid LLP, the email exchange with Aberdeen City Council, the email to Aberdeen City Council dated 1 September 2025 and the Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with an email to Aberdeen City Council dated 1 September 2025. The Tribunal noted the terms of these documents.
6. Mr Taylor moved the Tribunal to grant an Order to evict. He submitted that the Applicants first put the Property on the market in 2020. The sale was unsuccessful. The Applicants had been attempting to sell the home through the Low Cost Home Scheme operated by Aberdeen City Council. The Council agreed that the sale of the property could be postponed and that the Property

could be let out. The Applicants are now resident in the Republic of Ireland and wish to purchase a property there. The rent is £824 per month which barely covers the mortgage. The Applicants have kept the Respondents informed throughout. He understood the Respondents had been trying to get alternative accommodation.

7. In response Mrs McKinnon advised they did not oppose the eviction. They were overcrowded in the Property which had three bedrooms. They had three children, a son aged 16, a daughter aged 13 and another child aged 3. They needed a four bedroomed house. They had discussed their housing options with both Aberdeen City Council and Aberdeenshire Council, they had been bidding for properties and had approached local housing associations such as Castlehill Housing Association. They had been told they needed an Eviction Order before they could be rehoused. The Councils are aware of the CMD and Mrs McKinnon confirmed she would advise them of the outcome of the CMD. She asked that they be given extra time to find alternative accommodation. She confirmed her 16 year old son would start his exams at the end of April.

Reasons for Decision

8. The Tribunal considered the issues set out in the application together with the documents lodged in support. The Tribunal considered the submissions made by Mr Taylor and Mrs McKinnon.
9. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 1, namely the Landlord intends to sell the Property. This is a discretionary ground of eviction. As well as being satisfied the facts have been established to support the grounds, the Tribunal has to be satisfied that it is reasonable to evict.
10. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave, unless it is not made in breach of any of sections 54 to 56 and unless the eviction ground applied for is stated in the Notice to Leave accompanying the application.
11. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states it is the Applicants' intention to sell the Property at Part 2 of the Notice in terms of Ground 1 of schedule 3. The Notice to Leave specifies the date the landlord expects to become entitled to make an application for an eviction order and specifies a date in terms of Section 54(2) in this case 4 July 2025. In this case the Notice to Leave was received by the Respondents on 12 April 2025 as evidenced by the track and trace receipt. In terms of Section 54 the notice period of the Notice to Leave is 84 days. In the circumstances the Tribunal is satisfied the Respondents have been given

sufficient notice. Accordingly, the Notice to Leave served on the Respondents complies with Section 62 (1).

12. The Tribunal considered the submissions made on behalf of both parties. The Tribunal was satisfied on the basis of the documents lodged, together with parties' submissions that the factual basis of the application had been established in relation to Ground 1 and was satisfied the Applicants intended to sell the Property. However, Ground 1 is a discretionary ground of eviction. The Tribunal also has to be satisfied that it is reasonable to evict.
13. In determining whether it is reasonable to grant the order, the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal was satisfied that the Applicants' intention was to sell the Property when they obtained possession. They had clearly had previous attempts to sell the Property. It was not unreasonable that they use the sale proceeds to buy a Property in the Republic of Ireland where they were now settled. The Tribunal gave considerable weight to those facts. On the other hand, the Tribunal gave weight to the fact that the Respondents did not oppose the application and had sensibly sought help from the local Councils with rehousing. All things considered, the Tribunal considered the balance of reasonableness in this case weighted towards the Applicants. The Tribunal find it would be reasonable to grant the order.
14. In the circumstances the Tribunal considered that in terms of Ground 1 of Schedule 3 it was reasonable to grant an eviction Order in terms of Section 51 of the 2016 Act. However, the Tribunal was extremely conscious that it did not want to disturb the Respondents' 16 year old son during his exams. In the circumstances the Tribunal considered it was reasonable to let the Respondents and their family get through this important exam period without the upheaval of moving and accordingly decided it was reasonable to suspend the Order for two months.

Decision

15. The Tribunal granted an Order for repossession, suspended for two months. The decision of the Tribunal was unanimous.

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.

Shirley Evans

15 April 2026

Legal Chair

Date