



**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 (“the 2016 Act”)**

**Chamber Ref: FTS/HPC/EV/25/3712**

**Re: Property at 3 Madras Place, Neilston, Glasgow, G78 3PH (“the Property”)**

**Parties:**

**Ms Patricia Munro, 36 Craigenbay Road, Lenzie, G66 5JP (“the Applicant”)**

**Miss Keren McLeod, 3 Madras Place, Neilston, Glasgow, G78 3PH (“the Respondent”)**

**Tribunal Members:**

**Sarah O'Neill (Legal Member) and Tony Cain (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession should be granted in favour of the Applicant against the Respondent. The Tribunal delayed execution of the order until 1 July 2026.**

**Background**

1. An application was received from the Applicant’s solicitor on 1 September 2025 under rule 109 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (‘the 2017 rules’) seeking recovery of the property under Ground 1 (landlord intends to sell) as set out in Schedule 3 of the 2016 Act.
2. Attached to the application form were:
  - (i) Several tenancy agreements between the parties relating to the property, which commenced on 15 July 2017, 1 July 2018, 1 July 2019, 1 July 2020, 1 July 2023 and 1 July 2024.

- (ii) Copy Notice to Leave addressed to the Respondent dated 6 May 2025 citing ground 1, and stating the date before which proceedings could not be raised to be 2 August 2025.
  - (iii) Copy notice under section 11 of the Homelessness etc. (Scotland) Act 2003 addressed to East Renfrewshire Council, together with covering email dated 1 September 2025.
  - (iv) Email from the Respondent dated 18 August 2025 confirming that she received the Notice to Leave.
  - (v) Certificate of posting dated 6 May 2025.
  - (vi) Letter from Kelly Residential estate agents confirming that the Applicant had instructed them to market the property as soon as possible.
3. Further to a request from the Tribunal administration, further information was received from the Applicant's solicitor on 24 September 2025.
  4. The application was accepted on 31 October 2025.
  5. Notice of the case management discussion (CMD) scheduled for 30 April 2026, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the Tribunal on 19 March 2026. The Respondent was invited to submit written representations by 4 April 2026.
  6. No written representations were received from the Respondent in advance of the CMD.

### **The case management discussion**

7. A CMD was held on 30 April 2026. The Applicant was represented by Miss Capaldi of Bannatyne Kirkwood France solicitors. The Respondent was present on the teleconference call and represented herself.

### **Preliminary issues**

8. The Tribunal dealt with two preliminary issues. Firstly, it was unclear whether the tenancy agreement between the parties was in fact a private residential tenancy (PRT). The Tribunal noted that the Applicant had submitted multiple tenancy agreements which commenced between 15 July 2017 and 1 July 2024.
9. The legal member asked Miss Capaldi to explain why the Applicant believed that there was a PRT in place between the parties, rather than an assured tenancy. Miss Capaldi explained that the original tenancy agreement between the parties which commenced on 15 July 2017 was an assured tenancy. While the original

agreement (and all of the subsequent agreements) stated that it was intended to create a short assured tenancy, no form AT5 had ever been served on the Respondent. It was the Applicant's position that the original tenancy had therefore been an assured tenancy. From 1 July 2018, the date on which the second agreement commenced, it had become a PRT.

10. The Tribunal noted that in terms of section 46A of the Housing (Scotland) Act 1988, the landlord and the tenant under an assured tenancy may agree that on a day specified by them, the tenancy will cease to be an assured tenancy. Where that is agreed, the tenancy then becomes a PRT.
11. The legal member asked the Respondent whether the parties had reached such an agreement in 2018. The Respondent said that could not remember. It was her understanding that the tenancy was ongoing, and she had signed a new tenancy agreement each year. She was not aware that the law on tenancies had changed on 1 December 2017.
12. The Tribunal asked Miss Capaldi whether the Applicant had explained to the Respondent prior to entering into the new tenancy agreement what the implications of this were. Miss Capaldi asked for a short adjournment to seek further information about this.
13. Following the adjournment, Miss Capaldi confirmed that at the time the parties entered into the tenancy agreement which commenced on 1 July 2018, the Applicant had not realised that it had now become a PRT. The Applicant had made a previous application to the Tribunal in 2024 for an eviction under the rules for assured tenancies, having served a Notice to Quit on the Respondent. This had been rejected on the grounds that the tenancy was in fact a PRT. The Respondent confirmed that she had previously received a Notice to Quit from the Applicant.
14. Secondly, the Tribunal noted that while a certificate of posting had been submitted with regard to the Notice to Leave, it had not been possible to produce proof of delivery from Royal Mail. The Respondent confirmed that she had received the Notice to Leave on 7 May 2025.
15. Having considered all of the evidence before it, the Tribunal was satisfied that: 1) the tenancy between the parties was a PRT and 2) the Notice to Leave had been validly served on the Respondent.

### **Submissions on behalf of the Applicant**

16. Miss Capaldi asked the Tribunal to grant an eviction order in favour of the Applicant. The Applicant had been attempting to recover possession of the

property for some time. Miss Capaldi confirmed that the Applicant still intends to put the property up for sale within 3 months of the Respondent ceasing to occupy it. The Applicant is 70 years old and wishes to sell the property to fund her retirement. She had very recently lost her husband. She owns no other rental properties and no longer wishes to be a landlord. There is no mortgage over the property.

### **Submissions by the Respondent**

17. The Respondent said that she had been ready to move out of the property when she received the Notice to Leave. She had been in contact with the council about being rehoused, and had been advised that she would need to go through the eviction process before they could assist her. She had not expected the process to take so long. She did not wish to oppose the application.

18. She lives in the property with her two children. They are aged 7 and 11, and the older child has autism. They both attend schools in the local area. She works part-time and is in receipt of universal credit. The council had told her that they would find her temporary accommodation once an eviction order was granted, until they could find her somewhere longer term.

### **Findings in fact**

19. The Tribunal made the following findings in fact:

- The Applicant is the sole owner of the property. She is therefore entitled to sell the property.
- The Applicant is the registered landlord for the property.
- The Applicant does not currently have a mortgage secured over the property.
- There is a private residential tenancy agreement in place between the parties, which commenced on 1 July 2018.
- There was previously an assured tenancy agreement between the parties in respect of the property, which commenced on 15 July 2017.
- The Applicant had initially served a notice to quit on the Respondent in around 2024.
- The Notice to Leave was validly served on the Respondent by recorded delivery post on 7 May 2025.
- The Applicant sent a valid notice to East Renfrewshire Council under section 11 of the Homelessness etc. (Scotland) Act 2003 on 1 September 2025.
- The property is the only rental property owned by the Applicant.

- The Applicant intends to sell the property or put it up for sale within 3 months of the Respondent ceasing to occupy it.
- The Respondent lives in the property with her two children, who are aged 7 and 11.

## **Reasons for decision**

20. The Tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties.

21. The Tribunal considered whether the legal requirements of Ground 1, as set out in Schedule 3 of the 2016 Act (as amended), had been met. Ground 1 states:

### ***Landlord intends to sell***

*1(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, and*

*(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.*

22. The Tribunal determined that as the sole owner of the property, the Applicant is entitled to sell the property.

23. The Tribunal then considered whether the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it.

24. The Respondent did not dispute that the Applicant intended to sell the property.

25. The Tribunal had regard to the letter from Kelly Residential estate agents confirming that the Applicant had instructed them to market the property as soon as possible. The Tribunal was satisfied that this is evidence tending to show that the Applicant has the intention set out in sub-paragraph 2(b) of Ground 1.
26. The Tribunal also had regard to the submissions made on behalf of the Applicant by Miss Capaldi with regard to Ground 1.
27. Having considered all of this, the Tribunal determined that the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it.

### ***Reasonableness***

28. The Tribunal then considered whether it was reasonable to make an order for recovery of possession. In doing so, it took into account all of the circumstances of the case.
29. The Tribunal considered the Applicant's circumstances. It appeared that she has been attempting to recover possession of the property for some time. She has recently lost her husband. She wishes to sell the property to fund her retirement. She owns no other rental properties and no longer wishes to be a landlord. As the owner of the property, the Applicant has a legal right to use and dispose of it as she sees fit, within the confines of the law.
30. The Tribunal noted that the Respondent had been living in the property for almost nine years, and was facing the loss of her home through no fault of her own. She had been aware for quite some time, however, that the Applicant wished to recover the property. It was clear from that she had accepted that she would have to leave the property and was keen for matters to come to an end. It was also clear that an eviction order would assist her in seeking alternative council accommodation.
31. The Respondent's two young children are also living in the property with her. While they may have to live in temporary accommodation for a time, they would benefit in the longer term if they can secure more permanent council accommodation.
32. Having carefully considered all of the evidence and all of the circumstances of the case as set out above, the Tribunal considered that on balance it was reasonable to grant an eviction order.

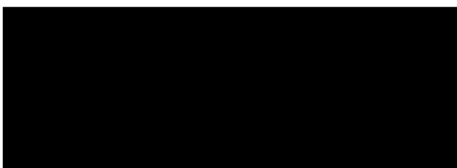
33. In reaching its decision, the Tribunal gave particular weight to the Respondent's lack of opposition to the application, and to her desire to secure social rented accommodation for herself and her children. It also gave weight to the Applicant's personal circumstances and her right to dispose of her own property.
34. The Tribunal therefore determined that an order for recovery of possession should be granted in favour of the Applicant.
35. Before making a decision on whether to grant the order, the Tribunal sought the views of both parties on the possibility of delaying execution of any eviction order in terms of rule 16A of the 2017 rules. The Respondent said that it would make things easier if an extension could be given until the end of the school year. This would avoid disruption for the children, and she herself works in a school, so the timing would also be better for her in that respect. Miss Capaldi indicated that the Applicant would be sympathetic to such an extension in the circumstances.
36. Having taken into account the parties' views, the Tribunal considered that it would be reasonable in all the circumstances to delay execution of the order until 1 July 2026.

### **Decision**

The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the property. The Tribunal delayed execution of the order until 1 July 2026.

### **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.**



30 April 2026

---

**Legal Member/Chair**

---

**Date**