



**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/25/3993**

**Re: Property at 8 Buchanan Street, Balfour, G63 0TT (“the Property”)**

**Parties:**

**Ms Jill Malvenan, 34 Cotton Street, Balfour, G63 0PG (“the Applicant”)**

**Mr James Clark, 8 Buchanan Street, Balfour, G63 0TT (“the Respondent”)**

**Tribunal Members:**

**James Bauld (Legal Member) and Melanie Booth (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 16 September 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 22 October 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 24 April 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 24 April 2026. The applicant was not in attendance but was represented by Mr Jonny Mckenzie of Yates Hellier, estate agents, Glasgow. The respondent was personally 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 he was not generally opposed to the order being granted. The applicant's representative 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 1 September 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 £1,095 per month.
11. On 25 April 2025 the applicant served upon the tenants a Notice to Leave as required by the Act. The Notice was served by recorded delivery mail upon the respondents and became effective on 21 July 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.
18. The tribunal accepted the evidence that the tenant does not oppose the granting of the order. He indicated that he is actively seeking alternative accommodation. He has been in touch with a local housing association and the local council. The respondent is 55 years of age and has had recent health problems. He is now semi-retired he indicated that he has been able to access his pension fund since turning 55 and his income has been supplemented from that source. He accepts that the landlord is entitled to sell the property and he understands the reasons for doing so. He indicated that it would be helpful if the tribunal delayed the granting of the order for a period of approximately two months to allow him to continue his steps to obtain alternative accommodation.
19. Mr McKenzie for the applicant indicated that he had no issue with enforcement of the order being delayed to allow the applicant further time to obtain alternative accommodation. Mr McKenzie indicated that the applicant is in her late 60s and simply now no longer wished to be a landlord and is looking to realise her assets.
20. That was some discussion relating to the possibility of the respondent purchasing the property from the applicant, but it became clear that valuation of the property was at a level beyond what the respondent could afford. It was also explained that there is no possibility of the property being sold by the landlord on the basis of it continuing to be tenanted nor of an order being granted by the tribunal on that basis.
21. The ground for eviction was accordingly established.
22. 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 that the landlord intends to sell the let property. When the 2016 Act was originally passed, that ground of eviction was mandatory. When this tenancy commenced that ground of eviction was mandatory. The tribunal was required by law to grant the eviction order if satisfied that the ground was established.
23. 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

24. 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”.***

25. The tribunal finds that it is reasonable to grant the order.

26. 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 sale of the property. He has sought assistance from the local council and local housing associations in an attempt to obtain alternative accommodation that is suitable. He is also seeking accommodation within the private letting market. It is likely that he will only be fully assisted in obtaining alternative accommodation when an eviction order is granted and she faces actual homelessness.

27. The granting of the order may therefore ultimately (and almost counter intuitively) benefit the respondent in her attempts to obtain alternative suitable accommodation.

28. The tribunal will delay the enforcement of the order until 30 June 2026 as agreed by the parties to allow the respondent additional time to obtain alternative accommodation.

29. 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.**

# J Bauld

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**Legal Member/Chair**

**Date: 24/04/2026**