



**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/25/4054**

**Re: Property at 1 Muirton, King Edward, Banff, AB45 3NP (“the Property”)**

**Parties:**

**Mr Patrick Dickson, Dounepark House, Dounepark, Banff, AB45 3QP (“the Applicant”)**

**Mr Barry County, Ms Belle County, 1 Muirton, King Edward, Banff, AB45 3NP (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member) and Elizabeth Williams (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction relying on ground 1 in the Private Housing (Tenancies)(Scotland) Act 2016 – the landlord intends to sell the property.**

**Background**

1. By application dated 18 September 2025 the applicant seeks an order for eviction relying on ground 1 (Landlord intends to sell the property) in schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. The applicant lodged the following documents with the application:
  - Copy tenancy agreement

- Notices to leave with proof of service
  - Letter from Burnett & Reid regarding marketing the property for sale.
  - Notice in terms of section 11 of the Homelessness Etc. (Scotland) Act 2003
3. A case management discussion (“cmd”) was assigned for 7 May 2026.

#### **Case management discussion – 7 May 2026- teleconference**

4. The applicant was represented by Mr Spangenberg, Pebble Mountain Properties Limited. Both respondents were in attendance.
5. Mr Spangenberg sought an order for eviction. He referred to the notices and correspondence that had been submitted. He confirmed that the applicant’s intention remained to sell the property. He advised that the respondents had been exemplary tenants and the application was in no way a result of their conduct.
6. Mrs County stated that she had recently returned to England due to family illness. She stated that during her occupancy of the property she had been a wheelchair user and affected by a debilitating medical condition. She resided with Mr County and their 2 children who also had medical conditions that impacted their day to day living. Mrs County stated that the property had not been suitable for the family and in the event an eviction order was granted she hoped to obtain more suitable accommodation in England, closer to her support network and services. The respondents did not dispute that the landlord intended to sell the property or the reasonableness of granting an order.

#### **Findings in fact**

7. Parties entered into a private residential tenancy agreement with a commencement date of 1 June 2023.
8. Valid notices to leave were served on the respondents on 6 January 2025.
9. The applicant has instructed agents to market the property for sale.

10. The respondents resided in the property were their 2 school age children.
11. The second respondent is a wheelchair user affected by a debilitating medical condition. The respondents' children are also impacted by medical conditions.
12. The property was unsuitable for the respondents and their family.

### **Reasons for decision**

13. Rule 17 (4) states:

*The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.*

14. Rule 18 states:

*Power to determine the proceedings without a hearing*

**18.—(1) Subject to paragraph (2), the First-tier Tribunal—**

**(a) may make a decision without a hearing if the First-tier Tribunal considers that—**

*(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and*

*(ii) to do so will not be contrary to the interests of the parties; and*

**(b) must make a decision without a hearing where the decision relates to—**

*(i) correcting; or*

*(ii) reviewing on a point of law,*

*a decision made by the First-tier Tribunal.*

**(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.**

15. The Tribunal was satisfied that it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

16. Ground 1 states:

*(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,*

*(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.*

17. The Tribunal accepted the evidence that the applicant intended to sell the property.

This was not disputed by the respondents.

18. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against.

19. The Tribunal gave significant weight to the fact that that the application was not opposed as the property was unsuitable for the respondents due to the type of accommodation and its location. The Tribunal gave weight to the fact that the applicant

had a genuine intention to sell the property. Taking account of the information presented to it the Tribunal determined that it was reasonable to grant an order.

### **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.**

**Mary-Claire Kelly**

Legal Member/Chair

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**7 May 2026**  
**Date**