



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/25/4429

Re: Property at 6 Merker Terrace, Linlithgow, West Lothian, EH49 6DD (“the Property”)

Parties:

Mr Michael Walsh, 2 Belgrove Place, Ribbans Park Road, Ipswich, Suffolk, IP3 8XH (“the Applicant”)

Ms Leona Marshall, 6 Merker Terrace, Linlithgow, West Lothian, EH49 6DD (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory process and the Ground for recovery of possession having been established, it is reasonable to grant the Order sought.

Background

1. By application received between 13 October 2025 and 7 November 2025 (“the Application”) the Applicant applied to the Tribunal for an Order for eviction and possession of the Property based on 1 of Schedule 3 to the 2016 Act.

2. The Application comprised the following:

i) copy Notice to Leave in terms of Ground 1 of Schedule 3 to the Act with proof of issue to the Respondent;

ii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to West Lothian Council being the relevant local authority

iii) copy tenancy agreement

iv) medical evidence and

v) evidence of intention to sell as required by the Act.

3. The Application narrated the Applicant’s reasons for selling the Property.

4. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (“CMD”) was fixed for 15 May 2026 at 14.00 by telephone conference and intimated to the Parties.

CMD

5. The CMD took place on 15 May 2026 at 14.00 by telephone. The Applicant, Mr. Walsh, was present and was not represented. The Respondent, Ms. Marshall, was present and was not represented.

6. Mr. Walsh confirmed that an Order for eviction is sought. Ms. Marshall confirmed that the Application is not opposed.

7. Tribunal explained that it required to be satisfied that the correct statutory process had been carried out, that the Ground for the Application is evidenced and that it is reasonable to grant the Order.

8. Mr. Walsh confirmed that, as set out in the Application, his intention to sell is based on his need to release capital from the sale of the Property. He explained that his continuing ill health means that he is having to give up work from 9 June this year and explained that he is not eligible for his state pension until December 2026. Mr. Walsh stated that he has no other rental properties and that he has no dependents. He confirmed that he had no objection to the effective date of the Order being stayed to allow Ms. Marshall to secure alternative accommodation.

9. Ms. Marshall explained that she has made contact with the local authority but had not been made an offer of housing. She stated that she has three teenage children and, from time to time, provides respite care for her niece. Ms. Marshall stated that she works part-time and provides care for her mother.

Findings in Fact

10. From the Application and the CMD, the Tribunal made the following findings in fact: -

- i) There is a private residential tenancy of the Property between the Parties;
- ii) The correct statutory procedure has been carried out;
- iii) The Applicant intends to sell the Property to alleviate financial and ill health pressures;
- iv) The Respondent is in part-time employment and
- v) The Respondent has three teenaged children.

Rule 17 (4) of the Rules

11. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal *“may do anything at a case management discussionincluding making a*

decision” . The Tribunal took the view that it had sufficient information to make a decision.

Issue for the Tribunal

12. The statutory procedure and Ground being established and the Application not being opposed, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal took the view that it had sufficient information to make a decision on reasonableness.

Decision and Reasons for Decision

13. The Tribunal must establish, consider and properly weigh the “whole of the circumstances in which the application is made” (Barclay v Hannah 1947 S.C. 245 at 249 per Lord Moncrieff) when deciding whether it is reasonable to grant an order for possession. Accordingly, the Tribunal looked to balance the rights and interests of both parties.

14. The Tribunal had regard to the Applicant, Mr. Walsh’s, circumstances and accepted that his reason for selling the Property is to release capital to support his changing financial position due to his deteriorating health.

15. With regard to the Respondent, Ms. Marshall, the Tribunal noted that she does not oppose the Application. With regard to alternative accommodation, the Tribunal noted that the Respondent has made enquiries with the local authority and so the Tribunal was satisfied that, if evicted and made homeless, the Respondent and her family would have protection in terms of Part II of the Housing (Scotland) Act 1987 and so would be able to access advice and assistance to secure accommodation suitable to their needs.

16. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction Order and that it is fair and just to stay the effective date of the Order to 15 August 2026 to allow the relevant local authority sufficient time to assist the Respondent, Ms. Marshall.

17. This decision is 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.

K Moore

15 May 2026