



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/25/3775

Re: Property at 2b Springfield Avenue, Uddingston, G71 7LY (“the Property”)

Parties:

Mrs Jacqueline Gavan, Oakeshott House Care Home, Sprinkers - Roundabout, Braehead, Stirling, FK7 7XE (“the Applicant”)

Mr Nicholas Sloan, 2b Springfield Avenue, Uddingston, G71 7LY (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of paragraph 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) are met in this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

In terms of section 54(1) of the 2016 Act, the private residential tenancy between the parties will end on 28 May 2026.

Background

- 1 This is an application for an eviction order under section 51 of the 2016 Act and Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant relied upon ground 1 of schedule 3 of the 2016 Act, stating her intention to sell the property.
- 2 The application was accepted as valid and referred to a tribunal for determination. A case management discussion (“CMD”) was scheduled to take place on 27 April 2026 at 10am. The Tribunal gave notice of the CMD to the

parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 10 March 2026 and required the Respondent to make written representations in response to the application no later than 28 March 2026.

3 No written representations were received from the Respondent.

The CMD

4 The CMD took place by teleconference on 27 April 2026 at 10am. Ms Siobhan Cunningham represented the Applicant. The Respondent did not join the call. The tribunal noted that he had been given notice of the CMD and had not provided any explanation for his failure to attend. The tribunal therefore delayed the start time of the CMD for a short period before determining to proceed in his absence.

5 The tribunal had the following documents before it:-

- (i) Form E application form;
- (ii) Land certificate confirming the Applicant's ownership of the property and proof of the Applicant's landlord registration;
- (iii) Private residential tenancy agreement;
- (iv) Notice to leave and proof of delivery to the Respondent;
- (v) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 and proof of delivery to the local authority;
- (vi) Email from Kirkland Estate and Letting Agents acknowledging the Applicant's instructions to value, market and sale the property on her behalf;
- (vii) Power of attorney authorising Ms Siobhan Cunningham to act as the Applicant's representative.

6 The tribunal explained the purpose of the CMD and proceeded to hear submissions from Ms Cunningham. The following is a summary of the key elements of the submissions.

7 Ms Cunningham is the Applicant's daughter and has power of attorney. She explained that she has been managing the tenancy on her mother's behalf. Her mother is in a care home, having been diagnosed with dementia. Ms Cunningham outlined the Applicant's care costs, explaining that she needs to sell the property to pay the care home for both prior and future fees. Ms Cunningham has never met the Respondent but understands him to be an elder gentleman in employment with no dependents. Ms Cunningham explained that the Respondent had accrued significant rent arrears, having last paid rent for the property in June 2025.

8 The tribunal adjourned the CMD to deliberate, at which point Ms Cunningham left the call, before resuming the proceedings and confirming the outcome.

Findings in fact and law

- 9 The Applicant is the owner and landlord, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement.
- 10 The Applicant has given the Respondent a notice to leave within the meaning of section 62 of the 2016 Act. The notice to leave includes ground 1. The notice to leave was emailed to the Respondent on 30 May 2025 and hand delivered to the property on 2 June 2025.
- 11 The Applicant has given the local authority a section 11 notice at the time of making this application.
- 12 The Applicant is entitled to sell the property as the registered owner.
- 13 The Applicant intends to sell the property, or market the property for sale, within three months of the Respondent ceasing to occupy it. The Applicant has instructed estate agents to value, market and sale the property on her behalf.
- 14 The Applicant is in a care home. The Applicant requires the sale proceeds to meet her prior and ongoing care costs.
- 15 The Respondent resides in the property alone.
- 16 The Respondent stopped paying rent for the property in July 2025. The Respondent has accrued rent arrears in the sum of £7950.
- 17 The Respondent has not opposed the application.
- 18 It is reasonable to make an eviction order.

Reasons for decision

- 19 The tribunal was satisfied that it could make relevant findings in fact to reach a decision on the application based on the documentary evidence and submissions from the parties at the CMD, and that to do so would not be contrary to the interests of the parties in this case.
- 20 Section 51 of the 2016 Act provides that "*The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.*"
- 21 Section 52 of the 2016 Act goes on to state that "*an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant.*" The tribunal had before it a copy of a notice to leave in the prescribed form that had been sent to the Respondent which cites ground 1 of schedule 3 of the 2016 Act. The tribunal was also

satisfied that the Applicant had sent a section 11 notice to the local authority in accordance with the requirements of section 56 of the 2016 Act.

- 22 The tribunal considered the terms of ground 1, which are contained in paragraph 1 of schedule 3 of the 2016 Act:-

“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,
(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.”*

- 23 The tribunal determined based on the documents before it and the submissions from Ms Cunningham at the CMD that the Applicant is entitled to sell the property as the registered owner and intends to do so within three months of the Respondent vacating. There was no contradictory evidence before the tribunal.
- 24 The tribunal therefore determined that paragraph 1(2)(a) and (b) of schedule 3 of the 2016 Act were met.
- 25 The tribunal went on to consider the reasonableness of making an eviction order in this case in accordance with the terms of paragraphs 1(2)(c) of schedule 3 of the 2016 Act.
- 26 The tribunal considered the Applicant’s property rights as the heritable owner, and her reasons for selling the property. The tribunal gave significant weight to her current circumstances, and the fact that she requires the proceeds from the sale to meet her care home costs. The tribunal was aware from its own knowledge that a sale with vacant possession would likely render a higher sale price.
- 27 The tribunal carefully considered the Respondent’s circumstances. Whilst the general impact of eviction upon the Respondent was a cause for concern, ultimately the Respondent had not sought to oppose the application. The tribunal further noted that he appears to have responded to the notice to leave

by ceasing his rent payments, thereby placing further financial strain on the Applicant. There were no known dependents within the property who would be at risk of homelessness, and the tribunal had no evidence to suggest that the Respondent is a particularly vulnerable individual. The tribunal therefore determined to give greater weight to the Applicant's circumstances in this case.

28 Accordingly, in considering those factors relevant to reasonableness the tribunal concluded that the balance weighed in favour of making an eviction order. The tribunal therefore determined that the provisions of paragraph 1 of schedule 3 of the 2016 Act had been met and made an eviction order under section 51 of the 2016 Act.

29 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.

Ruth O'Hare

30 April 2026

Legal Member/Chair

Date