



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/25/4932

Re: Property at 140 High Street, Tillicoultry, FK13 6DU (“the Property”)

Parties:

Mr Iain Parfitt, Cnoc Beith, Milton, Drumnadrochit, IV63 6UA (“the Applicant”)

Mr Christopher McDonald, 140 High Street, Tillicoultry, FK13 6DU and Ms Kristyna Hozakova, 36 Maurice Avenue, Stirling, FK7 7UD (“the Respondents”)

Tribunal Members:

George Clark (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondents.

Background

1. By application dated 15 November 2025, the Applicants sought an Eviction Order against the Respondents under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 1 of Schedule 3 to the 2016 Act, namely that the landlord intends to sell the Property.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, which commenced on 1 November 2021 at a rent of £595 per month, and a Notice to Leave dated 19 February 2025 advising the Respondents that an application to the Tribunal under Ground 1 would not be made before 27 May 2025. The Applicant also provided the Tribunal with copies of a Home Report dated 21 March 2022, a letter of engagement with solicitor/estate agents dated 3 March 2022 and an offer for the Property and a qualified acceptance, dated respectively 24 September 2025 and 14 October 2025.

3. The Applicant stated that he intends to sell the Property. He had an interest-only mortgage with Nationwide Building Society, the terms of which were due to expire in January 2026, and he also had a formal offer for the Property, dependent on obtaining vacant possession. He asked the Tribunal to exercise its discretion under Section 216(4) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 and reduce the period of charge from 14 days to 48 hours.
4. On 31 March 2026, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 21 April 2026. The Respondent, Mr McDonald, requested on 20 April 2026 that the Respondent, Ms Hozakova, had moved out of the Property in July 2025 and requested that her name be removed from the application. On 28 April 2026, the Applicant's solicitors confirmed their instructions to obtain an Eviction Order against both Respondents, as a joint tenant could not unilaterally terminate her interest in the tenancy.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the morning of 13 May 2026. The Applicant was represented by Mr Ross Faulds of Thorntons LLP, solicitors, Edinburgh. The Respondents were both present.
6. The Respondent, Ms Hozakova, confirmed to the Tribunal that she has already vacated the Property and is living elsewhere. Mr McDonald told the Tribunal that he has been offered a house by Clackmannanshire Council and was not opposing the application. He required an Eviction Order as a condition of being rehoused.
7. Mr Faulds, for the Applicant, confirmed that the offer for the Property was still on the table. but missives could not be concluded until the Eviction Order was granted, and the conveyancing was on hold. The Applicant's mortgage terms had been extended until the date of completion of the sale. He is selling at a notional loss and would be financially prejudiced by any delay in the eviction process. That was his reason for seeking a reduction in the period of charge, given that the Order could not in any event be enforced for a period of 30 days after the Tribunal's decision was received by the Respondents.

Reasons for Decision

8. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
9. Section 51 of the 2016 Act states that the 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 to the 2016 Act applies.

10. Ground 1 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the landlord intends to sell the let property and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell and 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 the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts. Ground 1 goes on to state that evidence tending to show that the landlord has that intention includes (for example) a letter of engagement from a solicitor or estate agent concerning the sale, or a recently prepared Home Report.
11. Section 216 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 provides that a defender may be removed from heritable property by virtue of an Eviction Order but only if the defender has been charged to remove from the property. The relevant period of charge in the present case would be 14 days, but Section 216(4) allows the Tribunal to vary the period of charge on cause shown.
12. The Tribunal noted that, whilst Ms Hozakova had moved out of the Property in July 2025, she had not agreed with the Applicant that she should be removed from the tenancy. Accordingly, the Applicant required any Order made by the Tribunal to have effect against both Respondents.
13. The Tribunal did not have regard to the Home Report or the letter of engagement, as both were dated 2022 so were not recent, but noted that there is an offer on the table, so the Tribunal was satisfied that the Applicant intends to sell the Property. Accordingly, the only matter for the Tribunal to decide was whether it would be reasonable to issue an Eviction Order.
14. The Tribunal noted that Ms Hozakova has already moved out and that Mr McDonald was not opposing the application and has been offered a house by Clackmannanshire Council, the offer being dependent on an Eviction Order being issued. The Applicant has an offer for the Property, and it was clear that he is keen to conclude that sale as soon as possible. Having considered carefully all the evidence before it, the Tribunal decided that it would be reasonable to issue an Eviction Order, and, in the exceptional circumstances of an offer for the Property having been made and Mr McDonald having secured alternative accommodation, that it would exercise the discretion vested in it by Section 216(4) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 to reduce the period of charge from 14 days to 48 hours.
15. The Tribunal's decision 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.

George Clark

Legal Member/Chair

13 May 2026
Date