



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/25/1799

Re: Property at 1 Bellevue Terrace, Ferryden, Montrose, DD10 9RY ("the Property")

Parties:

Mr Richard Dickson, 11 Eskview Terrace, Ferryden, Montrose, DD10 9RD ("the Applicant")

Mr Ian Alexander Livingston, 1 Bellevue Terrace, Ferryden, Montrose, DD10 9RY ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion ("CMD") which took place by telephone conference on 13 May 2026 the Applicant was in attendance supported by his wife. The Respondent was not present or represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that –

Background

A CMD had previously taken place on 11 March 2026. The Respondent did not attend that CMD and had lodged no written representations. The Applicant joined the CMD but had connectivity issues and the CMD was adjourned. A Direction was also issued.

The Tribunal noted the following background:-

- The heritable proprietor of the Property is Yang Xu.
- By virtue of a Private Residential Tenancy ("PRT") Yang Xu leased the Property to the Applicant. The start date of the PRT is stated to be "after Airbnb finishes".

- In terms of Clause 12 of the PRT subletting of the Property was agreed to be prohibited unless Yang Xu gives prior written permission therefore.
- On 12 February 2024 Yang Xu gave written permission to the Applicant to sublet the Property to the Respondent from 16 February 2024.
- By virtue of a "Residential Sublet Agreement" ("RSA") the Applicant subleased the Property to the Respondent from 16 February 2024.
- In terms of the RSA the Respondent required to pay rent of £450 per calendar month directly to Yang Xu.
- On 7 October 2024, the Applicant served on the Respondent by Sheriff Officers a Notice to Leave dated 3 October 2024 requiring the Respondent remove from the Property by 31 December 2024 on the basis of Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act"), namely that Yang Xu intends to sell the Property.
- The Applicant has served on Angus Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

In response to questions from the Tribunal the Applicant made the following oral representations:-

- i. The Respondent is still living in the Property. He is believed to be living there alone.
- ii. The Respondent is only one month in arrears of rent.
- iii. There is a total breakdown in communications between the Applicant and the Respondent. This has been the position for around 9 months. The Applicant asked the Respondent for access to the Property for gas compliance requirements and to inspect but the Respondent never replied. The Applicant therefore applied to the Tribunal for access to obtain the required Gas Safety Record. The Respondent made up a fictitious story about a Court order having been granted against the Applicant and his wife.
- iv. The Applicant has received no requests for references for the Respondent to indicate he is searching for alternative accommodation.
- v. The Applicant has received no contact from the local authority.
- vi. The Respondent knew the PRT was only meant to be for a short period. He worked in a garage where the Applicant took his car. The Respondent's wife had put him out and the Applicant said he would ask his step-son, Yang Xu, if the Respondent could occupy the Property and he agreed. The Applicant had known the Respondent for around 10 years.
- vii. The Respondent could well afford the rent.
- viii. Yang Xu is the Applicant's wife's son. He is an engineer. Yang Xu has previously signed a Power of Attorney in favour of the Applicant and his wife to deal with all arrangements for the Property.
- ix. The Property was originally intended to be Yang Xu's home. He had hoped to find employment here.
- x. After the Property was bought and renovated around the end of COVID, it was used as Airbnb accommodation. By the time the Airbnb ended Yang Xu could not get back to the UK from China so the Property was put up for rent.
- xi. Yang Xu is no longer interested in staying in the UK.
- xii. The deposit paid by the Respondent in terms of the RSA is still held.
- xiii. The Notice to Leave was served by the Applicant as the landlord under the RSA.
- xiv. In the email from Sarah Young of Purple Bricks dated 10 June 2025 relative to the sale of the Property "Jimmy Chan" is Yang Xu and "Helena James" is the Applicant's wife.

- xv. The Applicant has appointed a solicitor to deal with the sale but he is waiting on the outcome of these proceedings and the removal of the Respondent before instructing Purple Bricks to place the Property on the market.
- xvi. Once the Applicant has access to the Property an updated valuation of the Property will be obtained and the Property will go on the market as quickly as possible. At present access cannot be obtained for a Home Report to be prepared.
- xvii. The Applicant is 77 years of age. He wants rid of his landlord registration and rid of the Property.

The Tribunal adjourned to consider the position.

The Tribunal resumed the CMD and indicated it would grant the eviction order sought only after production of the Power of Attorney by Yang Xu in favour of the Applicant and his wife. The Applicant produced a redacted copy of the Power of Attorney to the Tribunal by email dated 13 May 2026.

Findings in Fact

The Tribunal made the following findings in fact:-

- i. The heritable proprietor of the Property is Yang Xu.
- ii. Yang Xu is the Applicant's wife's son.
- iii. The Property was originally intended to be Yang Xu's home. He had hoped to find employment here.
- iv. After the Property was bought and renovated around the end of COVID, it was used as Airbnb accommodation. By the time the Airbnb ended Yang Xu could not get back to the UK from China so the Property was put up for rent.
- v. Yang Xu is no longer interested in staying in the UK.
- vi. Yang Xu signed a Power of Attorney in favour of the Applicant on 10 October 2023 authorising the Applicant to deal with all arrangements for the Property.
- vii. By virtue of the PRT Yang Xu leased the Property to the Applicant. The start date of the PRT is stated to be "after Airbnb finishes".
- viii. In terms of Clause 12 of the PRT subletting of the Property was agreed to be prohibited unless Yang Xu gives prior written permission therefore.
- ix. On 12 February 2024 Yang Xu gave written permission to the Applicant to sublet the Property to the Respondent from 16 February 2024.
- x. By virtue of the RSA the Applicant subleased the Property to the Respondent from 16 February 2024.
- xi. In terms of the RSA the Respondent required to pay rent of £450 per calendar month directly to Yang Xu.
- xii. On 7 October 2024, the Applicant served on the Respondent by Sheriff Officers a Notice to Leave dated 3 October 2024 requiring the Respondent remove from the Property by 31 December 2024 on the basis of Ground 1 of Schedule 3 of the 2016 Act, namely that Yang Xu intends to sell the Property. The Notice to Leave was served by the Applicant as the landlord under the RSA.
- xiii. The Applicant has served on Angus Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- xiv. The Respondent is still living in the Property. He is believed to be living there alone.
- xv. The Respondent is only one month in arrears of rent.
- xvi. There is a total breakdown in communications between the Applicant and the Respondent.
- xvii. The Applicant asked the Respondent for access to the Property for gas compliance requirements and to inspect but the Respondent never replied. The Applicant

- therefore applied to the Tribunal for access to obtain the required Gas Safety Record. The Respondent made up a fictitious story about a Court order having been granted against the Applicant and his wife.
- xviii. The Applicant has received no requests for references for the Respondent to indicate he is searching for alternative accommodation.
 - xix. The Applicant has received no contact from the local authority.
 - xx. The Respondent knew the RSA was only intended to be for a short period.
 - xxi. The deposit paid by the Respondent in terms of the RSA is still held.
 - xxii. In the email from Sarah Young of Purple Bricks dated 10 June 2025 relative to the sale of the Property "Jimmy Chan" is Yang Xu and "Helena James" is the Applicant's wife.
 - xxiii. The Applicant has appointed a solicitor to deal with the sale but he is waiting on the outcome of these proceedings and the removal of the Respondent before instructing Purple Bricks to place the Property on the market.
 - xxiv. Once the Applicant has access to the Property an updated valuation of the Property will be obtained and the Property will go on the market as quickly as possible. At present access cannot be obtained for a Home Report to be prepared.
 - xxv. The Applicant is 77 years of age. He wants rid of his landlord registration and rid of the Property.
 - xxvi. The email from Sarah Young of Purple Bricks dated 10 June 2025 is sufficient evidence in terms of sub-paragraph (3) of Ground 1 of Schedule 3 of the 2016 Act.

Reasons for decision

The Respondent lodged no representations to the Tribunal and did not attend either of the CMDs. The factual background narrated by the Applicant within the application papers and orally at the CMD was not therefore challenged and was accepted by the Tribunal.

The application proceeds upon Grounds 1 of Schedule 3 of the 2016 Act.

Ground 1 of Schedule 3 of the 2016 Act 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."*

Yang Xu is entitled to sell the Property in terms of sub-paragraph 2(a), being the heritable proprietor thereof.

Sub-paragraph 2(b) requires that the landlord intends to sell the Property for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it. Sub-paragraph 3 gives examples of the evidence that might be produced to show the landlord has the intention described in sub-paragraph 2(b). In this instance the Applicant relies upon an email of 10 June 2025 from the selling agent, Sarah Young of Purple Bricks. The Tribunal accepts this document as sufficient to meet the terms of sub-paragraph 2(b).

The Tribunal also requires to be satisfied that it is reasonable to issue an eviction order in terms of sub-paragraph 2(c). No suggestion was made on behalf of the Respondent that the granting of an eviction order was not reasonable. Yang Xu lives in China. He no longer intends to live in the Property. Management of the Property by the Applicant for Yang Xu is a burden. The Applicant is 77 years of age.

On that basis the Tribunal granted an eviction order in terms of Ground 1 of Schedule 3 of the 2016 Act.

Decision

The Tribunal granted an eviction order against the Respondent in favour of the Applicant in terms of Ground 1 of Schedule 3 of the 2016 Act.

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.

G. Buchanan

Legal Member/Chair

1 June 2026
Date