



**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/25/4740**

**Re: Property at 69 Rowan Place, East Calder, West Lothian, EH53 0HQ (“the Property”)**

**Parties:**

**Mr Mark Darlow, 18 Mardell Avenue, Hobsonville, Auckland, 0616, New Zealand (“the Applicant”)**

**Ms Temitope Mordi, 69 Rowan Place, East Calder, West Lothian, EH53 0HQ (“the Respondent”)**

**Tribunal Members:**

**Robert MacDonald (Legal Member) and Elizabeth Williams (Ordinary Member)**

**Decision (in absence of the Respondent)**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that provisions of paragraph 4 of Schedule 3 of 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 51(4) of the 2016 Act, the private residential tenancy between the parties will end on 22<sup>nd</sup> June 2026.

**Background**

1. This is an application dated 24<sup>th</sup> October 2025 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 and Procedure 2017) (“The Rules”). The Applicant relied upon ground 4 of Schedule 3 of the 2016 as the ground for eviction, namely that the Applicants intended to occupy the let property as their only or principal home for at least three months.

2. The application was accepted by the Tribunal as valid and referred to a Tribunal for determination. A Case Management Discussion (“CMD”) was set down to take place on 21<sup>st</sup> May 2025 by teleconference. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the rules. The notice was served on the Respondent by Sheriff Officers on 23<sup>rd</sup> April 2026.
3. The Tribunal invited the Respondent an opportunity to make written representations in response to the application no later than 13<sup>th</sup> May 2026. No written representations were received from the Respondent.

### **The Case Management Discussion**

4. The CMD took place on 21<sup>st</sup> May 2026 at 10am. Ms Linich, trainee solicitor, Boyd Jackson Solicitors, Glasgow represented the Applicant Mr Darlow who was also present. The Respondent did not join the call. The Tribunal were satisfied that the Respondent had been given proper notice of the CMD. There was no explanation for her absence. She did not attempt to logon to the teleconference during the CMD.
5. The Tribunal had the following documents before it:-
  - a. Form E application form;
  - b. Land Certificate confirming that the property was owned by the Applicant and his spouse;
  - c. Evidence that the Applicant was registered as a landlord;
  - d. A copy of a Private Residential Tenancy agreement between the parties;
  - e. A copy of the Notice to Leave and proof of delivery of the Notice to the Respondent on 5<sup>th</sup> August 2025;
  - f. Copy Section 11 Notice in terms of the Homelessness Etc (Scotland) Act 2003 and proof of delivery to the Local Authority on 4<sup>th</sup> November 2025;
  - g. Written consent from Mrs Jekaterina Darlow as joint proprietor of the property;
  - h. Also provided were rent statements, an affidavit by the Applicant dated 27<sup>th</sup> November 2025 and letting report in relation to the subjects of let dated 26<sup>th</sup> November 2025.
6. The Tribunal heard submissions from Ms Linich on behalf of the Applicant, supplemented by further information being provided by the Applicant direct.
7. Ms Linich referred the Tribunal to her client’s affidavit. The property had been the Applicant’s family home until he and his family moved to work abroad in 2023. He has been working in New Zealand and the family now intended to return to live in Scotland and wished to resume occupation of the property. The property was a detached house with 4 bedrooms and provided adequate accommodation for the Applicant, his wife and two children who were aged 11 and 6. They had purchased the property in 2016. There were significant rent arrears with the current arrear amounting to £12,050. Ms Linich had limited information about the tenant’s circumstances. It was understood however that she potentially had four children living in the property, two of whom might be adults. The Applicant’s position was that he sought an order for eviction to allow him and his family to move back to stay in their family home.

8. The Tribunal adjourned the Case Management to deliberate outwith the presence of the Applicant and his agent. After a brief adjournment, the Tribunal resumed the Case Management Discussion and confirmed the outcome.

### **Findings and Fact in Law**

9. The Applicant and his wife are the owner of the property in terms of a land certificate registered in the Land Register of Scotland under title number MID171781. They are the landlords, and the Respondent is the tenant of the property in terms of a private residential tenancy agreement which commenced on 27<sup>th</sup> February 2023.
10. The Applicant's agents sent a Notice to Leave as defined by Section 62 of the 2016 Act to the tenant by email on 5<sup>th</sup> August 2025. The terms of the private residential tenancy agreement provided for service of such notices by email. In terms of the notice, the Respondent was advised that an application might be submitted to the Tribunal for an Eviction Order after 31<sup>st</sup> October 2025.
11. A notice in terms of Section 11 of the Homelessness Etc (Scotland) Act 2003 was sent on behalf of the Applicant to West Lothian Council on 4<sup>th</sup> November 2025.
12. The property was previously occupied by the Applicant, his wife and family between 2016 and 2023.
13. The Applicant wishes to return to Scotland to live in the property with his wife and children.
14. The Applicant has no other property available to him to live in in Scotland.
15. There are significant rent arrears in respect of the property.
16. The contractual rent for the property is £1750 per month. The rent account has been in arrears since July 2025. At the date of this decision, there was a rent arrear of £12,050.
17. The Respondent resides in the property with four children, two of whom may be adults.
18. The Respondent currently is receiving universal credit which makes a partial payment towards the rent at the rate of £1112.50 per month.
19. There was no appearance on or on behalf of the Respondent, nor had any submissions been made on her behalf.
20. It is reasonable to make an Eviction Order.

### **Reasons for Decision**

21. The Tribunal was satisfied having considered all the documentary evidence and the submissions from Ms Linich and the Applicant at the CMD that it had sufficient information before it to make the relevant findings in fact and to enable it to reach a decision on the application. The Tribunal accepted the documentary evidence and the submissions from the Applicant and his representative. There was no contradictory evidence before the Tribunal.
22. The Tribunal was satisfied that the Applicant had complied with the statutory requirements in relation to service of a notice to leave on the tenant.
23. The Tribunal was satisfied that the Applicant and his family wished to move back into the property on their return to Scotland in July/August 2026.

24. The Tribunal considered that this was the Applicant's family home and the Applicant wished to return to Scotland to live in the house. The Tribunal noted the extent of the rent arrears.
25. The Tribunal considered the Respondent's circumstances. The information the Tribunal had was limited as the Respondent had not chosen to either lodge submissions or appear in the Case Management Discussion. The Tribunal accepted that there might be dependents residing with the Respondent who would be at risk of eviction but noted that the Respondent had not opposed the application.
26. The Tribunal considered whether it was reasonable to make an Eviction Order on account of the information available to it which required the Tribunal to identify the factors relevant to reasonableness and determine how much weight should be applied to them. The Tribunal attached considerable weight to the fact that the Applicant wanted to be able to return to live in what had been the family home, that he had no other accommodation available to him in Scotland and that the Respondent had significant rent arrears.
27. Having considered the factors relevant to reasonableness, the Tribunal concluded that it was reasonable for an order for eviction to be granted. The Tribunal were satisfied that the provisions of paragraph 4 of Schedule 3 of the 2016 Act have been met in this case.
28. 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.**

**R. MacDonald**

**21.5.26**

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**Legal Member/Chair**

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**Date**