



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/25/2604

Re: Property at 7 Henderson Street, Lochgelly, Fife, KY5 9PR (“the Property”)

Parties:

Joanne Dall Executor of the late Joseph Preston, 3 - 4 Woodbank Cottages, Standing Stane, Windygates, KY8 5RU (“the Applicant”)

Daniel McKinlay, Taylor Muir, both 7 Henderson Street, Lochgelly, Fife, KY5 9PR (“the Respondents”)

Tribunal Members:

Joel Conn (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

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

Background

1. This is an application by the Applicant for an eviction order in regard to a Private Residential Tenancy (“PRT”) in terms of rule 109 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”). The PRT in question was by the Applicant’s late father, Joseph Preston, to the Respondents commencing on 4 August 2020.
2. The application was dated 30 May 2025 and lodged with the Tribunal around that date.
3. The application relied upon a Notice to Leave in terms of section 50 of the *Private Housing (Tenancies) (Scotland) Act 2016* dated 17 September 2024 and served upon the Respondents by email on that date in accordance with the Tenancy Agreement. The Notice relied upon Ground 1 of Schedule 3 Part 1 of the 2016 Act, being that the “Landlord intends to sell the Let Property”. In regard to the

ground, the body of the notice simply restated the intention to sell. The Notice to Leave intimated that an application to the Tribunal would not be made before 13 December 2024.

4. The application papers provided evidence of Mr Preston's death on 21 April 2021, and of the Applicant's appointment as executor of her late father's estate.
5. Evidence of a section 11 notice in terms of the *Homelessness Etc. (Scotland) Act 2003* served upon Fife Council on 30 May 2025 was included in the application papers.
6. Prior to the case management discussion ("CMD"), brief written submissions were received from Frontline Fife on behalf of the Respondents, indicating that the application would not be opposed.

The Hearing

7. The matter called for a CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 8 May 2026 at 14:00. We were addressed by the Applicant, and by the Respondents' agent, Magdalena Johnston, Housing Adviser, Frontline Fife. The Respondents were also in attendance and gave brief additional submissions.
8. In regard to the Applicant, the agent confirmed that eviction was still insisted upon as she required to wind up her late father's estate.
9. The Respondents' agent confirmed that the Respondents still did not oppose the application and were intending to seek rehousing from the local authority. We clarified with the Respondents that they understood that, by extending no defence, then eviction may be granted without any guarantee of what rehousing they may be offered. The Respondents' agent confirmed this was understood and that full advice had been provided to the Respondents.
10. Parties provided the following information which related to reasonableness:
 - a. The Property was a two-bedroom upper flat in a "four in a block".
 - b. The Respondents lived there with their two children, aged 4 and 5, who were in a local nursery and a local primary school.
 - c. The Property was not especially suitable for any reason and was not adapted for the Respondents' use.
 - d. The Applicant took issue with some internal damage to doors, but the Respondents accepted responsibility for the damage and intended to replace the doors before they left. (The Respondents also indicated that there was a broken living room window, but that this was not broken by the Respondents. The Applicant did not rely on the broken window in her application.)
11. No motion for expenses was made by either party.

Findings in Fact

12. On 31 July and 4 August 2020, Joseph Preston let the Property to the Respondents under a Private Residential Tenancy with commencement on 4 August 2020 (“the Tenancy”).
13. Mr Preston died on 21 April 2021.
14. The Applicant is executor to the estate of the late Mr Preston.
15. On or about 17 September 2024, the Applicant’s letting agent drafted a Notice to Leave in correct form addressed to the Respondents, providing the Respondents with notice, amongst other matters, that the Applicant wished to sell the Property.
16. The Notice to Leave provided the Respondents with notice that no application would be raised before the Tribunal prior to 13 December 2024.
17. The Notice to Leave was served on the Respondents by email on 17 September 2024 in accordance with the Tenancy Agreement.
18. The Applicant raised proceedings for an order for eviction with the Tribunal, under Rule 109, relying on Ground 1 of Schedule 3 Part 1 of the 2016 Act, on or around 30 May 2025.
19. A section 11 notice in the required terms of the *Homelessness Etc. (Scotland) Act 2003* was served upon Fife Council on 30 May 2025.
20. The Applicant wishes to sell the Property with vacant possession in early course as part of the process of winding up the estate of the late Joseph Preston.
21. The Respondents reside with their two children (aged 4 and 5) at the Property. Their children attend nursery and primary schools local to the Property.

Reasons for Decision

22. The application was in terms of rule 109, being an order for eviction of a PRT. We were satisfied on the basis of the application and supporting papers that the Notice to Leave had been competently drafted and served upon the Respondents.
23. Ground 1 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:
 - (1) *...the landlord intends to sell the let property.*
 - (2) *The First-tier Tribunal may find that the ground named by subparagraph (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.*

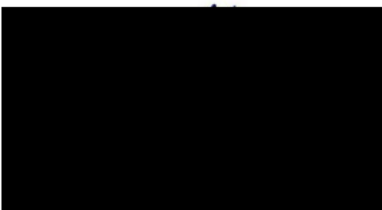
24. There was no evidence provided of the type mentioned in paragraph (3) but we were satisfied by the Applicant's submissions that, as executor, she wished to sell so as to wind up her late father's estate. This is the natural progress of an executry. We thus accept that paragraphs (2)(a) and (b) were satisfied. In any event, the Respondents did not dispute that the material requirements of Ground 1 were satisfied.
25. We therefore considered whether it was reasonable to issue an eviction order under paragraph (2)(c). We accepted the Applicant's reasons for wishing to sell, and these were not disputed by the Respondents. We were obliged to both parties for their candour. In light of the submissions, we held that it was reasonable to grant an order for eviction at the CMD.
26. The Rules allow at rule 17(4) for a decision to be made at a CMD as at a hearing before a full panel of the Tribunal. On the basis of the information held, we are thus satisfied to grant an order for eviction at this time.

Decision

27. In all the circumstances, we grant an order against the Respondents for eviction from the Property under section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* further to ground 1 of Schedule 3 of that 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.



Legal Member/Chair

8 May 2026

Date