



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/25/4632

Re: Property at 3-1 Drybrough Crescent, Edinburgh, EH16 4FD (“the Property”)

Parties:

Langah Ltd, 12 Blackchapel Road, Edinburgh, EH15 3QU (“the Applicant”)

Ms Apolonia Marta Winarska, 3-1 Drybrough Crescent, Edinburgh, EH16 4FD (“the Respondent”)

Tribunal Members:

Shirley Evans (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 an order against the Respondent for possession of the Property at 3-1 Drybrough Crescent, Edinburgh, EH16 4FD under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees, and others together with their goods, gear and whole belongings forth and from the Property and to make the same void and redd that the Applicant or others in her name may enter thereon and peaceably possess and enjoy the same.

Background

1. This is an application for eviction for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The Applicant’s case is based on Ground 1 (Landlord intends to sell the Property) of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

2. The application was accompanied by a Private Residential Tenancy Agreement between the parties dated 29 February 2020, letters from the Applicant to the Respondent dated 23 September 2024, 2,17 and 25 February 2025, 20 March 2025, 1 and 28 October 2025 and further emails from the Applicant to the Respondent regarding rent arrears, a Notice to Leave and email dated 17 February 2025, an email from the Respondent to the Applicant dated 29 September 2025, a Gumtree advert advertising the Property for sale, further emails between the parties dated 1 and 2 December 2025 and a Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with an email to Edinburgh City Council dated 20 October 2025.
3. On 25 April 2026 the Tribunal issued a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 1 June 2026. This paperwork was served on the Respondent by Dale G Barrett, Sheriff Officer, Edinburgh on 28 April 2026 and the Certificate of Intimation was received by the Tribunal administration.
4. On 18 May 2026 the Tribunal issued a Notice of Direction requiring the Applicant to lodge an affidavit or a letter of terms of engagement from a solicitor or an estate agent in support of the application. This was not received by the Applicant until 26 May 2026. On 1 June 2026 the Applicant forwarded an affidavit and a letter of terms of engagement from Aikman Bell, solicitors.

Case Management Discussion

5. The Tribunal proceeded with the CMD by way of a teleconference call on 1 June 2026. The Applicant was represented by Mrs Rashevskia. There was no appearance by or on behalf of the Respondent despite the CMD starting 5 minutes late to allow her plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in her absence.
6. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 29 February 2020, the letters from the Applicant to the Respondent dated 23 September 2024, 2,17 and 25 February 2025, 20 March 2025, 1 and 28 October 2025, the further emails from the Applicant to the Respondent regarding rent arrears, the Notice to Leave and email dated 17 February 2025, the email from the Respondent to the Applicant dated 29 September 2025, the Gumtree advert advertising the Property for sale, the further emails between the parties dated 1 and 2 December 2025, the Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 together with the email to Edinburgh City Council dated 20 October 2025, the Applicant’s affidavit and the letter of terms of engagement from Aikman Bell. The Tribunal considered the terms of these documents.

7. Mrs Rashevskaja advised the Tribunal that the Applicant was a limited company. They had decided they needed to sell the Property some time ago due to ever increasing interest rates and factors fees. They had discussed their intentions to sell with the Respondent and served a Notice to Leave on her on 17 February 2025. They needed to sell with vacant possession to obtain the best price for the Property. They had approached various companies to market the Property but there was very little interest due to the fact there was a tenant in the Property and although there were some viewings there had been no interest in the Property. The Gumtree advert had since been taken down. They had engaged Aikman Bell to sell the Property. She went on to explain that after the Notice to Leave had been served the Respondent fell into arrears which now stood at about £5000. They also had concerns about the condition of the Property. They were now suffering financial hardship due to the arrears.

8. On being questioned by the Tribunal, Mrs Rashevskaja advised she had last been in contact with the Respondent a week ago. She explained the Respondent had a son who she believed was about 10 years of age. She also believed the Respondent's mother had moved into the Property as there had been some correspondence with her. She was uncertain whether the Respondent had recourse to public funds. The Applicants owned a number of properties and managed other properties.

Reasons for Decision

9. The Tribunal considered the issues set out in the application together with the documents lodged in support of the application.

10. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 1, namely the Landlord intends to sell the Property. This is a discretionary ground of eviction. As well as being satisfied the facts have been established to support the grounds, the Tribunal has to be satisfied that it is reasonable to evict.

11. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave, unless it is not made in breach of any of sections 54 to 56 and unless the eviction ground applied for is stated in the Notice to Leave accompanying the application.

12. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states it is the Applicant's intention to sell the Property at Part

2 of the Notice in terms of Ground 1 of schedule 3. The Notice to Leave specifies the date the landlord expects to become entitled to make an application for an eviction order and specifies a date in terms of Section 54(2) in this case 17 May 2025. In this case the Notice to Leave was deemed to be received by the Respondent on 19 February 202 being 28 hours after it was sent to her in terms of Section 62(5) of the 2016 Act. In terms of Section 54 the notice period of the Notice to Leave is 84 days. In the circumstances, the Tribunal is satisfied the Respondent has been given sufficient notice. Accordingly, the Notice to Leave served on the Respondent complies with Section 62 (1).

13. The Tribunal considered the submissions made on behalf of the Applicant. The Tribunal was satisfied on the basis of the documents lodged, together with Mrs Rashevskaja's submissions that the factual basis of the application had been established in relation to Ground 1 and was satisfied the Applicant intended to sell the Property. However, Ground 1 is a discretionary ground of eviction. The Tribunal also has to be satisfied that it is reasonable to evict.

14. In determining whether it is reasonable to grant the order, the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal was satisfied that the Applicant's intention was to sell the Property when they obtained possession. The Tribunal accepted that even before the Respondent had fallen into arrears the Applicant had decided they needed to sell the Property due to financial pressures. The fact that the Respondent was now in arrears of rent exacerbated that position. The Tribunal gave considerable weight to those facts. On the other hand, the Tribunal gave weight to the fact that the Respondent had not opposed the application. All things considered, the Tribunal considered the balance of reasonableness in this case weighted towards the Applicant. The Tribunal find it would be reasonable to grant the order.

15. In the circumstances the Tribunal considered that in terms of Ground 1 of Schedule 3 it was reasonable to grant an eviction Order in terms of Section 51 of the 2016 Act.

Decision

16. The Tribunal granted an Order for repossession in favour of the Applicant. 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.

Shirley Evans

1 June 2026

Legal Member

Date