



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/25/4025

Re: Property at 5 Kilknowe, East End, Earlston, TD4 6HN (“the Property”)

Parties:

Ms Susan Arnott, 9 Back Feus, Selkirk, TD7 4LL (“the Applicant”)

Ms Doreen Margaret Soutar, 5 Kilknowe, East End, Earlston, TD4 6HN (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member) and Andrew Taylor (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

1. An application had been received under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession under a private residential tenancy by the Applicant against the Respondent for the Property.

2. The application included: -
 - a. Tenancy agreement,
 - b. Notice to leave with evidence of service.
 - c. Section 11 Notice with evidence of service
 - d. Email from the applicant and James Agent confirming instructions to sell the property.
3. The respondent emailed the tribunal on 12 March 2026 with 9 attachments.
4. The case proceeded to a case management discussion on 13 April 2026. The case had to be continued as the ordinary member was not in attendance. Reference is made to the case management discussion note. The respondent advised the tribunal on that date that she was not opposing the eviction application.
5. On 5 May 2026 the applicant's agent, Ms Allen from Harper Macleod LLP appeared and Ms Soutar the respondent appeared.

Discussion

6. The applicant's agent confirmed that they were seeking an order for eviction. She understood that there was no opposition to the application for eviction. This was a private residential tenancy. It commenced on the 15th of January 2018. A notice to leave had been served. The landlord intended to proceed to sell the property on the open market for market value. She had instructed James Agent to sell the property. The respondent could apply to the local authority to obtain a tenancy. The local authority was aware that this application had been made by sending a section 11 notice. The respondent had no dependents. The property was not adapted. The applicant would be prejudiced if she is unable to sell the property, the mortgage costs have risen, and it is not economical for her to keep the property.
7. The respondent confirmed that she is not opposed to the application. She complained, however, that the procedure adopted by the applicant had been

unusual. She had spoken to the local authority about seeking alternative housing in September 2025. She confirmed that she did not wish to remain in the property.

Findings in Fact

8. The Tribunal found the following facts established: -
9. There existed a private residential tenancy between the Applicant and the Respondent.
10. The tenant was Doreen Soutar.
11. The landlord was Susan Arnott.
12. The property is Kilknowe, East End, Earlston.
13. It had commenced on 15 January 2018.
14. A notice to leave was submitted dated 23 December 2024, stating that an application would not be made until 31 March 2025. It sought eviction under ground 1 intention to sell.
15. The notice to leave had been served by recorded delivery on 23 December 2024. There was evidence of service.
16. A section 11 notice had been sent to the local authority advising that the landlord was seeking possession of the property. There was evidence of service of that notice.
17. The title deeds for the property show that the landlord was the owner of the property.
18. The agent confirmed that James Agent had been instructed to sell the property.
19. The landlord intended to sell the house.
20. The respondent did not oppose the order for eviction being granted.

Reasons for Decision

21. Section 51 of the 2016 Act provides the Tribunal with a power to grant an order for eviction for a private residential tenancy, if it finds that one of the grounds in Schedule 3 of the Act applies.

22. The grounds which the Applicant seeks eviction under are grounds 1. Ground 1 is in the following terms: -

1 Landlord intends to sell.

(1) It is an eviction ground that the landlord intends to sell the let property.

(2) The First-tier Tribunal [may] ² find that the ground named by sub-paragraph (1) applies if the landlord—

(a) is entitled to sell the let property, [...] ³

(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] ⁴

(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.

23. The landlord owns the property and is therefore entitled to sell it. The landlord provided evidence of her intention to sell the property. If the order is granted, it appears to the tribunal that the property will be sold. We find that the application meets the tests set out in ground 1.

24. The tribunal was then required to consider whether it would be reasonable to grant the order. We consider it would be reasonable to grant the order for eviction.

25. In deciding to grant the order for eviction, we placed most weight on the fact that the respondent did not oppose the order being granted. While she does not have other property to move to yet, she has sought advice from the housing department. The applicant seeks to sell the property as interest rates have gone up, and it is not economical to rent it out any longer. We consider that, in all the circumstances, it would be reasonable to grant an order for eviction.

26. Having regard to the matters set out above, the tribunal was prepared to grant the order for recovery of possession under ground 1.

Decision

27. The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

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.

Melanie Barbour

Legal Member/Chair

05 May 2026

Date