



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/25/4389

Re: Property at 1F2, 13 Watson Crescent, Edinburgh, EH11 1HB (“the Property”)

Parties:

Dr Shun Feng, Av. de l'Église-Catholique 11, Renens, Vaud, Switzerland, 1020 (“the Applicant”)

Mr Anas Abaline, 1F2, 13 Watson Crescent, Edinburgh, EH11 1HB (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

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

- Background

This is an application for an eviction order against the Respondent, who occupies the Property in terms of a private residential tenancy agreement with the Applicant. It called for case management discussion (‘CMD’) at 10am on 1 June 2026, by teleconference. The Applicant was on the call in-person. The Respondent was not on the call and was not represented. The commencement of the CMD was delayed by ten minutes, in case he was experiencing any technical problem; but there remained no contact from him.

Notification of the application and the date of the CMD was given to the Respondent by sheriff officers on 28 April 2026. The Tribunal was satisfied that he was aware of the case calling and had chosen not to appear. It was therefore fair to proceed in his absence.

- Findings in Fact

The facts on which the decision was made in this case were taken from the documents included with the application, as follows:

1. The Property is let to the Respondent and two other individuals by the Applicant in terms of a private residential tenancy with a start date of 5 August 2024.
2. At first on 27 December 2024, and then on 8 March 2025, the Respondent contacted the Applicant by text to say that one then the other of the other tenants were no longer occupying the Property. The Applicant has not received any notice from either other tenant of their intention to terminate the tenancy.
3. The Respondent has continued to occupy the Property on his own since that time.
4. On 18 September 2025, the Applicant sent a notice to leave to the Respondent by email, to the address agreed by them in tenancy agreement for him to receive notices. He did not send any notice to leave to either of the other tenants.
5. The Respondent acknowledged receipt of the notice to leave later on 18 September 2025. Within the body of the notice, the Applicant indicated that he intended to rely on grounds 11, 12 and 14 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 ('the Act'); and that he would be able to apply for an eviction order from the Tribunal no sooner than 15 October 2025.

6. This application was made on 9 October 2025.

- Reasons for Decision

7. This application is refused because it attempts to terminate a joint tenancy on the basis of a notice to leave that has not been given to all of the tenants under that tenancy. Sections 51 and 52 the Act state (so far as is relevant):

“51 First-tier Tribunal's power to issue an eviction order

(1) The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies. ...

(4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

52 Applications for eviction orders and consideration of them

...

(2) The Tribunal is not to entertain an application for an eviction order if it is made in breach of—

(a) subsection (3)

(3) An application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant.”

Section 78(3) of the Act goes on to clarify that, “In a case where two or more persons jointly are the tenant under a tenancy, references in this Act to the tenant are to all of those persons unless stated otherwise.”

8. Reading across these provisions, it is clear that, in the case of a joint tenancy, an eviction order cannot be granted in regard to one tenant only; since there are no words in s.51 that suggest the effect would be limited to only one tenant, and the default position set out in s.78(3) therefore applies. That makes sense in context, since an eviction order would have the effect of terminating the tenancy, in terms of s.51(4).
9. It follows that an application must proceed against all of the tenants under a joint tenancy; and may only proceed on the basis of a notice that has been given to all those tenants, per s.52(3). If it does not, the Tribunal may not entertain it (s.52(2)).
10. The Applicant suggested that the other tenants had in some way relinquished their interest under the tenancy by ceasing to occupy the Property; however that is not a valid means of bringing a tenancy to an end (still less, a joint tenancy, where another tenant or tenants are not also terminating). Written notice in terms of ss.48 and 49 of the Act would be required from all tenants. In this case, the only intimation suggesting a wish to terminate came from the Respondent; and only related to two of the tenants. S.44 of the Act is clear that, “A tenancy which is a private residential tenancy may not be brought to an end by the landlord, the tenant, nor by any agreement between them, except in accordance with this Part.”

- Decision

Application refused.

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.

Nairn Young

Legal Member/Chair

1st June 2026

Date