



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/25/4853

Re: Property at 3 St Kilda Bank, Irvine, KA11 1HS (“the Property”)

Parties:

Mrs Dawn Lesley Anderson, 8 Balcomie Crescent, Troon, KA10 7AR (“the Applicant”) per her agents Waddell & Mackintosh 36 West Portland Street Troon KA10 6AB (“the Applicant’s Agents”)

Mr Richard Thomas Smith, 3 St Kilda Bank, Irvine, KA11 1HS (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory process and the Ground for recovery of possession having been established, it is reasonable to grant the Order sought.

Background

1. By application received between 11 November 2025 and 3 December 2025, (“the Application”), the Applicant’s Agents on her behalf applied to the Tribunal for an Order for eviction and possession of the Property based on Ground 1 of Schedule 3 to the 2016 Act.

2. The Application comprised the following:

i) copy Notice to Leave in terms of Ground 1 of Schedule 3 to the Act with proof of issue to the Respondent;

ii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to North Ayrshire Council being the relevant local authority

iii) copy tenancy agreement and

iv) evidence of intention to sell as required by the Act.

3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion ("CMD") was fixed for 5 June 2026 at 14.00 by telephone conference and intimated to the Parties.

CMD

4. The CMD took place on 5 June 2026 at 14.00 by telephone. The Applicant, Ms. Anderson, was not present and was represented by Mr. Murdoch of the Applicant's Agents. The Respondent, Mr. Smith, was not present and was not represented. The Tribunal was satisfied that Mr. Smith had been served with the Application by Sheriff Officer on 30 April 2026 and so was aware both of the proceedings and that he ought to attend. Accordingly, the Tribunal proceeded in his absence.

5. Mr. Murdoch confirmed that an Order for eviction is sought. The Tribunal explained that it required to be satisfied that the correct statutory process had been carried out, that the Ground for the Application is evidenced and that it is reasonable to grant the Order. The Tribunal asked Mr. Murdoch to provide information on the respective circumstances of the Parties.

6. With regard to Ms. Anderson, Mr. Murdoch stated that the Property is one of two properties owned by her and that she simply wished to sell it. He explained that as there had been difficulties with access to inspect the Property, Ms. Anderson thought that she might have refurbishment work to carry out before marketing, but, nonetheless, she was resolved to sell.

7. With regard to Mr. Smith, Mr. Murdoch stated that, as far as he was aware, Mr. Smith lives alone in the Property with no dependents. Mr. Murdoch advised that Ms. Anderson's letting agents had advised her that, although there were no firm details, Mr. Smith indicated to them that he had secured alternative accommodation and would be vacating the Property.

Findings in Fact

8. From the Application and the CMD, the Tribunal made the following findings in fact: -

- i) There is a private residential tenancy of the Property between the Parties;
- ii) The correct statutory procedure has been carried out;
- iii) The Applicant intends to sell the Property;
- iv) The Respondent lives alone and has no dependents.

Rule 17 (4) of the Rules

9. The Tribunal had regard to Rule 17(4) of the Rules, which states that the Tribunal "*may do anything at a case management discussion ... including making a decision*". The Tribunal took the view that it had sufficient information to make a decision.

Issue for the Tribunal

10. The statutory procedure and Ground being established and the Application not being opposed, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal took the view that it had sufficient information to make a decision on reasonableness.

Decision and Reasons for Decision

11. The Tribunal must establish, consider and properly weigh the "whole of the circumstances in which the application is made" (Barclay v Hannah 1947 S.C. 245 at 249 per Lord Moncrieff) when deciding whether it is reasonable to grant an order for

possession. Accordingly, the Tribunal looked to balance the rights and interests of both parties.

12. The Tribunal had regard to the Applicant, Ms. Anderson's, circumstances and accepted that she is entitled to sell the Property and intends to do so.

13. With regard to the Respondent, Mr. Smith, the Tribunal noted that he does not oppose the Application. The Tribunal had regard to the facts that he lives alone and has no dependents. Whether or not Mr. Smith has secured alternative accommodation, the Tribunal was satisfied that, if evicted and made homeless, the Respondent would have protection in terms of Part II of the Housing (Scotland) Act 1987 and so would be able to access advice and assistance to secure accommodation suitable to his needs.

14. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction Order.

15. This decision is 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.

Karen Moore

Legal Member/Chair

5 June 2026
Date