



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/5007

Re: Property at 67 Newfield Road, Stonehouse, ML9 3HH (“the Property”)

Parties:

Mr John Fagan and Mrs Cathy Fagan, Dun Valhalla, Toward Dunoon, PA23 7UB (“the Applicant”)

Miss Natalie O'Hara, 67 Newfield Road, Stonehouse, ML9 3HH (“the Respondent”)

Tribunal Members:

Elaine Paton (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 an eviction order should be granted against the Respondent in favour of the Applicant.

Background

1. The Applicant seeks an eviction order in terms of Section 51 and Ground 1 of Schedule 3 of the 2016 Act. A tenancy agreement, Notice to leave, section 11 notice, and Statement by the Applicant, were lodged with the application; with a copy letter dated 18 November 2025 regarding engagement of services to market the property for sale produced subsequently.
2. A copy of the application was served on the Respondent by Sheriff Officers on 01 May 2026. The parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 05 June 2026 at 14.00 hours and that they were required to participate. The Respondent was required to submit any written representations in response

to the application by 21 May 2026. No response was received from the Respondent in advance of the CMD.

3. The CMD took place on 05 June 2026. The start time was delayed briefly to allow the Respondent an opportunity to attend in the event they may have been making efforts to dial into the teleconference call. The CMD teleconference hearing commenced. The Applicant was not present but was represented by Mr Barry Munro of GBS Lets Ltd. The Respondent did not participate.

Summary of Discussion at CMD

4. The Tribunal explained the purpose of the CMD. In response to the Tribunal, the Applicant's letting agent Mr Munro stated the tenant was still residing in the Property and their agency was currently trying to assist the Respondent with finding an alternative property for the family to move to, explaining that an appointment to view one property had been cancelled by them for this week but rearranged for next week. Mr Munro stated that in a very recent exchange of messages with the Respondent's partner, they had passed on the telephone and email address for the HPC as the Respondent and their partner had wondered if the CMD might be deferred to another date and Mr Munro had explained to them they would need to be in touch with the HPC as a matter of urgency if they intended to make that request. On checking, the Tribunal noted no communication had been received from the Respondent. The Tribunal noted the eviction order was being sought by the Applicant as they wanted to sell the Property as a consequence of their age and desire to consolidate their position and secure their finances.
5. The Tribunal noted the Private Residential Tenancy agreement lodged with the application states the tenancy started on 31 May 2019. Also lodged with the application was a Notice to Leave dated 22 August 2025 which Mr Munro said was emailed to the Respondent that same day. Mr Munro confirmed the Notice to Leave stated an application to the Tribunal for an eviction order would not be submitted before 18 November 2025. The Applicant sent Notice in terms of Section 11 of Homelessness etc (Scotland) Act 2003 to South Lanarkshire Council by email on or around 20 November 2025. The First-tier Tribunal for Scotland received the Applicant's application for eviction on or around 20 November 2025. Mr Munro explained that the Applicant had first raised with the Respondent approximately a year ago that it was their intention to sell but had held off as long as possible. Upon expiry of the period stated in the Notice to Leave, the Applicant approached an estate agency with a view to the Property being marketed for sale. A letter of engagement by Munro Property dated 18 November 2025 was produced. By way of explanation Mr Munro stated that although the company Munro Property shared their surname, they were not involved in that company as they operated GBS Lettings Ltd including financial services; however, the company Munro Property, an estate agency business, is owned by a family member and

the Applicant had approached that estate agency company, Munro Property, regarding the sale of the Property.

6. Mr Munro stated that both applicants were retired and they live in Dunoon; they do not have children and have no close family members. Applicant Mr Fagan has had health issues, including recently, and they have been reconsidering their circumstances, particularly with no immediate family to assist them. They have been landlords for approximately 14-15 years, have no other rental properties, and they no longer wish to continue due to their age and health. Their outstanding mortgage balance has recently changed and the Applicant's mortgage is now a standard variable rate, therefore they want to sell the property and use the proceeds to pay off their mortgage.
7. In response to the Tribunal, Mr Munro stated the Property was a detached bungalow with four bedrooms. Mr Munro indicated the Respondent is believed to reside in the Property with their partner and four children, with the Respondent's partner's child from a previous relationship staying at the Property on occasions. Mr Munro stated they believed the couple to be in their thirties, the children aged between 10/11 years to 15/16 years old and there may have been mention at some point in passing about one of the children suffering from anxiety but otherwise no health issues affecting the family were known to Mr Munro. Furthermore, in response to the Tribunal, Mr Munro stated the Respondent had always paid their rent and largely adhered to their tenancy obligations (couple or so reminders had been issued about garden maintenance over the period-minor points) and they would have no hesitation in providing a reference for the Respondent, continuing to explain they wish to assist the Respondent in securing an alternative property. Responding to the Tribunal, Mr Munro stated the Respondent's partner operated a family business with their father and the Respondent is a part-time primary school teacher; Mr Munro was aware that the family's financial position was such that they could afford a significantly higher rental arrangement in another property but they were unaware whether or not the Respondent was in receipt of any benefits or whether they intended to attempt to secure social housing accommodation.

Findings in Fact

8. The Applicant is the owner and landlord of the Property.
9. The Respondent is the tenant of the Property in terms of a private residential tenancy agreement which commenced on 31 May 2019.
10. The Applicant served a Notice to Leave on the Respondent on 22 August 2025.
11. The Applicant made arrangements on or around 18 November 2025 for the engagement of services from an estate agency business Munro

Property to market the Property for sale once it is vacant, obtaining a current Home Report at that time.

12. The Respondent is engaged in making arrangements to move to alternative housing.
13. The Respondent resides at the Property with their partner and children and is still in occupation of the Property.

Reasons for Decision

14. The application was submitted with a copy signed Private Residential Tenancy agreement. The Respondent has resided at the Property since 31 May 2019.
15. The application was also submitted with a Notice to Leave dated 22 August 2025, together with a copy email to the Respondent which establishes the Notice was served on the Respondent on that date. The Notice states that an application to the Tribunal is to be made on ground 1 (the tenant intends to sell the Property).
16. The application to the Tribunal was made after expiry of the period stated in the Notice to Leave. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
17. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
18. Ground 1 of schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states, "*(1) It is an eviction ground that the landlord intends to sell the let property. (2) The First-tier Tribunal may find that the ground named by sub-paragraph (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 had 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.*"

19. The Tribunal accepted the unchallenged evidence of the Applicant in the form of the documents submitted and the information provided at the CMD.
20. In relation to Ground 1, the Tribunal is satisfied that the Applicant is entitled to sell the let Property. The Applicant produced a letter dated 18 November 2025 regarding their engagement of the services from Munro Property for the marketing of the Property for sale and obtaining a Home Report once the Property is vacant (mindful of validity timespan of a Home Report) therefore the Tribunal had documentary evidence before it to demonstrate the Applicant's intention to sell the Property or put it up for sale within three months of the tenant ceasing to occupy it therefore the Tribunal found that Ground 1 had been established.
21. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following:
 - (a) The Respondent has resided in the Property for 7 years, and resides there with their partner and four children (generally four children are resident at a given time, and all are school-age), also that the Respondent is regarded by the Applicant as a good tenant, always paying the rent on time.
 - (b) The Tribunal is satisfied there is no evidence to contradict Mr Munro's understanding that the Respondent is working part-time at a primary school nor that their partner operates their own business and is likely to contribute to the household income. The Tribunal is satisfied there is no evidence before it of the Respondent being in receipt of any benefits.
 - (c) The Tribunal is satisfied there is no evidence to contradict Mr Munro's statement that the Respondent and their family are able to afford a property with a significantly higher rent than the £695 currently being paid by the Respondent for the Property, there being no evidence to contradict that Mr Munro's agency has been assisting the Respondent in viewing alternative accommodation (within their budget known to Mr Munro as stated to GBS Lettings Ltd).
 - (d) The Tribunal is satisfied there is no evidence to contradict Mr Munro in stating there are no known health issues regarding the Respondent or members of their family (other than a passing mention in conversation of one of the children having been anxious at that time). The Tribunal is satisfied one of the children in the Respondent's household may have had an (or has) episode(s) of anxiety, a position not disputed by the Applicant, however no information or evidence in relation to same was submitted by the Respondent.
 - (e) The Respondent did not participate in the CMD or notify the Tribunal if the application is opposed.

- (f) The Tribunal is satisfied both applicants are retired, they currently live in Dunoon and the Applicant Mr Fagan's recent health issues have brought into focus the Applicant's plan to consolidate their financial affairs.

The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act that ground 1 has been established. For the reasons outlined in paragraph 21, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

1. The Tribunal determines that an eviction order should be granted against the Respondent.

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.

E.Paton

Date: 05 June 2026