



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 (“the Act”)

Chamber Ref: FTS/HPC/EV/25/4270

Re: Property at 11 Maxwell Street, Fochabers, IV32 7DE (“the Property”)

Parties:

Mr Bob Milton, Den Orchard House, Fochabers, Moray, IV32 7PQ (“the Applicant”)

Ms Elaine Jamieson, 11 Maxwell Street, Fochabers, IV32 7DE (“the Respondent”)

Tribunal Members:

Susan Christie (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it was inappropriate to grant an Order under Section 51 of the Act, and refuses same, as the tenancy had ended. A Notice to Leave having been served on the Respondent and the Respondent having subsequently vacated the Property and left it empty and unoccupied.

Background

1. The Applicant’s application to the tribunal for recovery of possession under Ground 12 of Schedule 3 of the Act was accepted by the tribunal on 26 January 2026.
2. A Case Management Discussion was arranged to take place on 20 May 2026 by teleconference at 2p.m.
3. The Case Management Discussion details were given to the Applicant by letter.
4. Sheriff Officers were instructed to serve the paperwork on the Respondent but were unable to do so as she had left the Property.
5. The Applicant exchanged e mails with tribunal staff indicating he was aware of this. He was asked if he wished to withdraw the application, or otherwise, but made no request. He was further invited to participate at the CMD to clarify his position.

Case Management Discussion (CMD)

6. On 20 May 2026 at 2pm the tribunal opened the line to the CMD conference call. Extra time was afforded to allow for the Applicant to dial in, but he did not.

Reasons for Decision

7. The tribunal was aware that intimation of the CMD had been unsuccessful on the Respondent.
8. The Applicant did not participate in the CMD call. His earlier communications with the tribunal staff seemed to indicate that he did not see the benefit in doing so, as the Respondent had left the Property.
9. A Notice to Leave had been produced along with the application. It had been served on the Respondent on 1 September 2025 personally by the Applicant; and again, on 11 October 2025 personally but with a witness in attendance who countersigned it.
10. A Report of Sheriff Officers dated 26 January 2026, addressed to the tribunal, noted that they were unable to effect service on the Respondent on 20 April 2026 because the Property was found to be empty and unoccupied. They had spoken to the applicant who stated that the respondent had vacated the Property at the end of February/start of March 2026.
11. The tribunal considered the following Section of the Act:

Section 50: Termination by notice to leave and tenant leaving.

- (1) *A tenancy which is a private residential tenancy comes to an end if—*
 - (a) *the tenant has received a notice to leave from the landlord, and*
 - (b) *the tenant has ceased to occupy the let property.*
- (2) *A tenancy comes to an end under subsection (1) on the later of—*
 - (a) *the day specified in the notice to leave in accordance with section 62(1)(b), or*
 - (b) *the day on which the tenant ceases to occupy the let property...*

12. The tribunal was satisfied that the application could be decided at the CMD in the absence of the Parties given that a Notice to Leave had been produced and having had sight of the Sheriff Officer's Report and its terms.
13. The tribunal determined that the Private Residential Tenancy had come to an end and there was no evidence before it to show the need for an Order; no service had been made on the Respondent in any event; and the Applicant did not participate to make submissions at the CMD to a contrary position, nor ask for alternative service by a different mode.
14. The tribunal considered the most appropriate decision was to dispose of the Application and refuse to grant an Order as the tenancy had ended.
15. The tribunal determined that the date on which the tenant had ceased to occupy the Property was by 20 April 2026, based on the Sheriff Officer's Report.
16. The decision of the tribunal 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.

Susan Christie

Legal Member/Chair

20 May 2026

Date