



**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/25/3808**

**Property at 246 Oakfield Street, Kelty, KY4 0BZ (“the Property”)**

**Parties:**

**Mr Peter Devine, Glenarty, Benarty Road, Kelty, KY4 0HR (“the Applicant”)**

**Mr Simon MacDonald, 246 Oakfield Street, Kelty, KY4 0BZ (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

**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. The Tribunal also ordered a delay in execution of the order until 29 July 2026 in terms of Rule 16A(d) of the Tribunal Procedure Rules 2017.**

**Background**

1. The Applicant lodged an application for an eviction order in terms of Section 51 and Grounds 1 and 5 of schedule 3 of the 2016 Act. A tenancy agreement, Notice to leave, evidence of the intention to sell and a section 11 notice were lodged with the application.
2. A copy of the application was served on the Respondent by Sheriff Officer. The parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 20 May 2026 at 10am and they were required to participate. Prior to the CMD both parties lodged written submissions and documents.

3. The CMD took place on 20 May 2026. The Applicant participated and was represented by Ms Moran. The Respondent also participated and was represented by his wife, Mrs Macdonald.

### **Summary of Discussion at CMD**

4. The Legal Member advised the parties that it is not clear from the written submissions whether the Respondent opposes the application. The submissions raise a number of issues in relation to the application but also indicate that the Respondent is actively seeking alternative accommodation and has applied to the Local Authority but will not be given homeless priority unless an eviction order is granted. Mr and Mrs MacDonald told the Tribunal that they had wanted to buy the property as they have lived there for 10 years but that the Applicant refused to show them the Home Report and his price was excessive. Following further discussion, both Mr and Mrs MacDonald confirmed that they do not oppose the granting of an eviction order, despite their concerns and the fact that they have been unsuccessful in finding alternative accommodation. They said that the Local Authority is their only option. In response to further questions, the Respondent confirmed that the tenancy agreement lodged with the application and dated 2019 is the current tenancy. They have lived in the property since 2016, but the tenancy became a sole private residential tenancy in 2019 when they separated for a brief period.
5. The Legal Member noted that the application was made on both grounds 1 and 5. This appears to be an error. Ground 5 does not apply when the family member who intends to live in the property is also the purchaser. Ms Moran confirmed that the application is based on ground 1 only and ground 5 is withdrawn.
6. In response to further questions from the Tribunal, Mr and Mrs MacDonald stated that they live at the property with their youngest son who has medical problems but is in employment. Mrs MacDonald also has health problems. The house has not been adapted and is in poor condition because the Applicant had failed to address issues with damp and mould which have affected the property for many years. It is an upper flat. They have applied to the Council and made the Council aware of their health issues. They have also applied to various housing associations. If they become homeless, hostel or bed and breakfast accommodation would be unsuitable. A neighbour has agreed to allow them to erect a small chalet in her garden as a temporary measure if required.
7. Ms Moran advised the Tribunal that the Applicant is elderly and wants to sell the property and stop being a landlord. It is his only rental property. He decided to sell the property to his grandson and partner as they need somewhere to live and want to get onto the property ladder. They have made a formal offer to purchase the property at market value.

8. In response to a question from the Tribunal about a possible delay in enforcement of the eviction order, Mrs MacDonald said that additional time would be beneficial and indicated that an extra 4 weeks would be appreciated. Ms Moran said that the Applicant has no objection to a delay of 4 weeks.

### **Findings in Fact**

9. The Applicant is the owner and landlord of the property.
10. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
11. The Applicant intends to sell the property and cease being a landlord.
12. The Applicant has decided to sell the property to his grandson and has received a formal offer to purchase it.
13. Although the Respondent has resided in the property for 10 years and wanted to buy it, he does not oppose the application.
14. The Respondent resides at the property with his wife and adult son. His wife and son have health issues.
15. The Respondent has been unsuccessful in finding alternative accommodation either to buy or to rent. He has been advised by the Local Authority that he will not be given priority unless an eviction order is granted.
16. The Applicant served a Notice to leave on the Respondent on 16 May 2025.

### **Reasons for Decision**

17. The application was submitted with a Notice to Leave dated 16 May 2025 together with evidence that it was hand delivered to the Respondent on that date. The Notices states that an application to the Tribunal is to be made on ground 1, the landlord intends to sell the let property. The application to the Tribunal was made after expiry of the notice period. 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.
18. 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."

19. Ground 1 of schedule 3 (as amended) 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.”
20. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Applicant intends to sell the property to his grandson. He has received a formal offer to purchase the property. Part 1 of Ground 1 is therefore established.
21. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -
- (a) The Respondent does not oppose the application. Although he has lived there for 10 years and would have liked to purchase it, he has now made application to the Local Authority and he and his wife told the Tribunal that they do not oppose the granting of an order.
  - (b) The Applicant wants to sell the property as he is elderly and wants to stop being a landlord. He has decided to sell the property to his grandson who is currently looking to purchase a home.
  - (c) The Respondent has applied to the Local Authority, housing associations and is actively seeking alternative accommodation. He is concerned that temporary accommodation options may be unsuitable for his family and is considering other short term alternatives.
22. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act and 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.
23. The Tribunal orders a delay in enforcement of the eviction order until 29 July 2026. The Respondent confirmed that an additional 4 weeks beyond the usual timescales would be beneficial and the Applicant does not oppose this delay.

## **Decision**

24. 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.**

**Josephine Bonnar, Legal Member**

**20 May 2026**