



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 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/3760

Re: Property at Flat 4, 6 Thistle Street, Kirkintilloch, G66 1NU (“the Property”)

Parties:

Mr Alastair Mitchell, 68 Iona Way, Kirkintilloch, G66 3PY (“the Applicant”)

Mr Barry Henderson, Flat 4, 6 Thistle Street, Kirkintilloch, G66 1NU (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of paragraph 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) are met in this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

In terms of section 54(1) of the 2016 Act, the private residential tenancy between the parties will end on 22 June 2026.

Background

- 1 This is an application for an eviction order under section 51 of the 2016 Act and Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant relied upon ground 1 of schedule 3 of the 2016 Act, stating his intention to sell the property.
- 2 The application was accepted as valid and referred to a tribunal for determination. A case management discussion (“CMD”) was scheduled to take place on 22 May 2026 at 2pm. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served

upon the Respondent by sheriff officers on 23 April 2026 and required the Respondent to make written representations in response to the application no later than 13 May 2026.

3 No written representations were received from the Respondent.

The CMD

4 The CMD took place by teleconference on 22 May 2026 at 2pm. Both parties joined the call. The Applicant was accompanied by his wife as a supporter.

5 The tribunal had the following documents before it:-

- (i) Form E application form;
- (ii) Land certificate confirming the Applicant's ownership of the property and proof of the Applicant's landlord registration;
- (iii) Private residential tenancy agreement;
- (iv) Notice to leave and proof of delivery to the Respondent by email;
- (v) Notice under section 11 of the Homelessness etc (Scotland) Act 2003 and proof of delivery to the local authority; and
- (vi) Email from R&G Estate Agents acknowledging the Applicant's instructions to value, market and sale the property on his behalf.

6 The tribunal explained the purpose of the CMD and proceeded to hear submissions from the parties. The following is a summary of the key elements of the submissions.

7 The Applicant is 78 years old. His wife is 81 and has recently been diagnosed with cancer. The Applicant wants to get his affairs in order. He can no longer manage the property and wishes to remove himself from the private rented sector. He cannot handle the responsibility of being a landlord. This is the only rental property he has. It is subject to a mortgage. He wants to get his financial affairs settled.

8 The Respondent did not oppose the application. He has been offered social housing and is awaiting confirmation of the entry date. Some repairs are required to the property before he can move in.

9 The tribunal adjourned the CMD to deliberate, at which point the parties left the call, before resuming the proceedings and confirming the outcome.

Findings in fact and law

10 The Applicant is the owner and landlord, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement.

11 The Applicant has given the Respondent a notice to leave within the meaning of section 62 of the 2016 Act. The notice to leave includes ground 1. The notice to leave was emailed to the Respondent on 3 June 2025. The Respondent

consented to the delivery of notices by email under the terms of the tenancy agreement between the parties.

- 12 The Applicant has given the local authority a section 11 notice at the time of making this application.
- 13 The Applicant is entitled to sell the property as the registered owner.
- 14 The Applicant intends to sell the property, or market the property for sale, within three months of the Respondent ceasing to occupy it. The Applicant has instructed R&G Estate Agents to value, market and sell the property on his behalf.
- 15 The Applicant is retired. He is 78 years old. His wife is 81 years old and has been recently diagnosed with cancer.
- 16 The Applicant can no longer manage the responsibilities of being a landlord. The Applicant wishes to sell the property to settle his financial affairs. The property is the Applicant's only rental property.
- 17 The Respondent has secured social housing and is awaiting confirmation of an entry date for his new property.
- 18 The Respondent does not oppose the application for an eviction order.
- 19 It is reasonable to make an eviction order.

Reasons for decision

- 20 The tribunal was satisfied that it could make relevant findings in fact to reach a decision on the application based on the documentary evidence and submissions from the parties at the CMD, and that to do so would not be contrary to the interests of the parties in this case.
- 21 Section 51 of the 2016 Act provides that "*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.*"
- 22 Section 52 of the 2016 Act goes on to state that "*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.*" The tribunal had before it a copy of a notice to leave in the prescribed form that had been sent to the Respondent which cites ground 1 of schedule 3 of the 2016 Act. The tribunal was also satisfied that the Applicant had sent a section 11 notice to the local authority in accordance with the requirements of section 56 of the 2016 Act.

- 23 The tribunal considered the terms of ground 1, which are contained in paragraph 1 of schedule 3 of the 2016 Act:-

“Landlord intends to sell

*1(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 has 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.”*

- 24 The tribunal determined based on the documents before it and the submissions from the parties at the CMD that the Applicant is entitled to sell the property as the registered owner and intends to do so within three months of the Respondent vacating. There was no contradictory evidence before the tribunal.
- 25 The tribunal therefore determined that paragraph 1(2)(a) and (b) of schedule 3 of the 2016 Act were met.
- 26 The tribunal went on to consider the reasonableness of making an eviction order in this case in accordance with the terms of paragraphs 1(2)(c) of schedule 3 of the 2016 Act.
- 27 The tribunal considered the Applicant’s property rights as the heritable owner, and his reasons for selling the property. The tribunal gave significant weight to his current circumstances, and his need to remove himself from the private rented sector as reflected in the tribunal’s findings in fact.
- 28 The tribunal also considered the Respondent’s circumstances, noting that he did not oppose the eviction order as he had secured housing with a registered social landlord. There were therefore no factors that weighed against the making of an eviction order in this case.
- 29 The tribunal therefore determined that the provisions of paragraph 1 of schedule 3 of the 2016 Act had been met and made an eviction order under section 51 of the 2016 Act.
- 30 The decision of the tribunal was 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.

Ruth O'Hare

22 May 2026

Legal Member/Chair

Date