



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

Chamber Ref: FTS/HPC/EV/25/5182

Re: Property at 4/3 (2F) Learmonth Terrace, Edinburgh, EH4 1PQ (“the Property”)

Parties:

Ms Emma Craigie-Halkett, residing at 23 Kensington Hall Gardens, Beaumont Avenue, London, W14 9LS and Mrs Susie Spens residing at Lion Hill House, West Meon, Petersfield, Hampshire, GU32 1JF (“the Applicants”)

Ms. Kirsty Macdonald and Mr. Chris Mallon, both residing at 4/3 (2F) Learmonth Terrace, Edinburgh, EH4 1PQ (“the Respondents”)

Tribunal Members:

James Bauld (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted but that the earliest date for enforcement should be delayed until 31 August 2026.

Background

1. By application dated 1 December 2025, the applicants sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 17 December 2025 the application was accepted by the tribunal and referred for determination by the tribunal.

3. A Case Management Discussion (CMD) was set to take place on 18 June 2026, and appropriate intimation of that hearing was given to both the landlord and the tenants.

The Case Management Discussion

4. The Case Management Discussion took place on 18 June 2026. The applicants were not in attendance but were represented by Mr Raphael Bar of DJ Alexander, estate agents, Edinburgh. The respondents were personally present.
5. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
6. The tribunal asked various questions of the parties with regard to the application
7. The respondents confirmed that they were not opposed to the order being granted. The applicant's representative confirmed that he wished the order sought to be granted.

Findings in fact

8. The applicants' late mother, Mrs Craigie-Halkett-Inglis, and the respondents as respectively the landlord and tenant entered into a tenancy of the property which commenced on 4 January 2018
9. The tenancy was a private residential tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016. ("the Act")
10. The agreed rental was £7,560 per six months, payable in advance .
11. The applicants succeeded to the property in terms of their late mother's will and are now the landlords.
12. On 21 August 2025 the applicants served upon the tenants a Notice to Leave as required by the Act. The Notice was served by email upon the respondents and became effective on 16 November 2025
13. The notice informed the respondents that the landlord wished to seek recovery of possession using the provisions of the Act.
14. The notice was correctly drafted and gave appropriate periods of notice as required by law.

15. The notice set out a ground contained within schedule 3 of the Act, namely ground 1 that the landlords intended to sell the let property

Reasons for the decision

16. The order for possession was sought by the landlord on a ground specified in the act and properly narrated in the notice served upon the tenant.

17. The tribunal was satisfied that the notice had been served in accordance with the terms of the act and that the landlord was entitled to seek recovery of possession based upon that ground.

18. The tribunal accepted the unchallenged evidence of the landlords that they intend to sell the property.

19. The tribunal accepted the evidence that the tenant does not oppose the granting of the order. They indicated that they are actively seeking alternative accommodation. They intend to purchase a property and hope to have that concluded within the next two to three months. The respondents occupy the property together and have no dependent children. Mr Mallon is a self-employed contractor, and Ms McDonald is not currently in employment. They both accept that the landlords are entitled to sell the property, and they understand the reasons for doing so. They indicated that it would be helpful if the tribunal delayed the granting of the order for a period of approximately 12 weeks to allow them to continue their attempts to obtain alternative accommodation.

20. Mr Bar for the applicant indicated that he did not wish the enforcement of the order to be delayed to allow the respondents further time to obtain alternative accommodation. He indicated that the landlords are keen to progress the sale of the property as quickly as possible. He indicated that the notice to leave had been served last August and that the respondents have known for a period of almost a year that the landlords wish to sell the property. He had lodged statements from both landlords which indicated that each of them required to sell the property for personal reasons to assist them with certain issues relating to the purchase of property and to alleviate ongoing financial and health conditions

21. The respondents indicated that the property had previously been marketed by the letting agents and that one viewer had attended. They indicated that they would be willing to cooperate with any active marketing and would allow contractors, agents and prospective purchasers to attend for any required inspections and viewings. Mr Bar indicated that the preference of the landlords is that they wish to obtain vacant possession prior to marketing the

property as they would wish to inspect the property and carry out any necessary refurbishment or redecoration works prior to marketing.

22. The ground for eviction under which this application was made is the ground contained in paragraph 1 of schedule 3 of the 2016 Act. The ground is that the landlord intends to sell the let property. It was not disputed that the ground for eviction was accordingly established
23. When the 2016 Act was originally passed, that ground of eviction was mandatory. When this tenancy commenced that ground of eviction was mandatory. The tribunal was required by law to grant the eviction order if satisfied that the ground was established.
24. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on this ground can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact
25. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties. This is confirmed by one of the leading English cases, **Cumming v Danson**, ([1942] 2 All ER 653 at 655) in which Lord Greene MR said, in an oft-quoted passage:

“[I]n considering reasonableness ... it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account”.
26. The tribunal finds that it is reasonable to grant the order.
27. The tribunal accepts that the landlords are entitled to sell the property and wish to do so. The tribunal accepts that the tenants are not opposed to the sale of the property. They are also taking steps to secure alternative accommodation.
28. The tribunal accepts that the landlords intend to sell the property and wish to do so as quickly as possible. The tribunal is required to balance the competing interests of the parties. The respondents may face homelessness if

the order is enforced within a very short period of time. Accordingly, the tribunal takes the view that the enforcement of the order should be delayed for a period of time to allow the respondents to attempt to secure alternative accommodation. The tribunal will delay the enforcement of the order until 31 August 2026 to allow the respondents additional time to obtain alternative accommodation.

29. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that the final order should be made at the CMD.

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.

J. Bauld

Legal Member/Chair

Date

18th June 2026