



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 and Rule 17 of the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017

Chamber Ref: FTS/HPC/EV/25/5342

Re: Property at 16 Broomhead Drive, Dunfermline, KY12 9DU (“the Property”)

Parties:

Mr Donald Nicolson, 24B Links Street, Kirkcaldy, KY1 1QE (“the Applicant”)

Mr Aron Sim, 16 Broomhead Drive, Dunfermline, KY12 9DU (“the Respondent”)

Tribunal Members:

Hilary Macandrew (Legal Member) and Janine Green (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Eviction Order be granted.

1) Background

- 1.1 By Application dated 10 December 2025 the Applicant seeks an order for eviction relying on ground 1 (the Applicant wishes to sell the property) and ground 3 (the Applicant wishes to refurbish the property) in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
- 1.2 The application to the Tribunal was made by Form E and was accepted for determination by the Tribunal on 11 December 2025.
- 1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondent by sheriff officers on 28 May 2026.
- 1.4 The Applicant lodged the following documents in advance of the case management discussion (CMD):-

- Private residential tenancy agreement
- Notice to Leave
- Section 11 Notice to Local Authority
- Pre Action Requirement correspondence
- Your Move valuation currently and on completion of essential works

2) The Case Management Discussion

- 2.1 The CMD took place by tele conference on 30 June 2026. The Applicant was represented by Ms Jackie Barr of Streets Ahead Scotland. The Respondent represented himself.
- 2.2 Ms Barr confirmed that the property is 16 Broomhead Drive, Dunfermline.
- 2.3 The parties entered into a Private Residential Tenancy Agreement which commenced on 24 March 2025.
- 2.4 Ms Barr was able to talk about the personal circumstances of the Applicant. The Applicant is aged 62. He and his wife live some 200 miles from the tenancy. It is the only tenancy they have and they are unable to manage it from a distance. They wish to sell the property and require to extensively refurbish the property in advance of sale. They intend carrying out the refurbishment and having the property on the market within three months of any order being granted.
- 2.5 The Respondent explained his circumstances which were that he is single and has no dependents. He talked about having a good relationship with the Applicant. He sympathised with the Applicant in that they live a distance from the property and also that he understands that the Applicant's wife suffers poor health. He explained that he had never opposed the order being granted. He had been told by the local authority when he sought local authority accommodation that he had to go through the Tribunal process before they would accept his application for housing. He has been told that he would be first on the list for housing. He said that he is unable to afford rent in the private sector. He is not working. He said that the council have said they will accept his application as soon as an Eviction Order is granted. He did not see additional time to make arrangements to vacate the property on the basis that the council will accept the application and give it priority as soon as the order is given to them.
- 2.6 Rule 17 of the First-Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 provides that the Tribunal may do anything at a CMB which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a hearing.

3) Findings in Fact and Law

- 3.1 The Applicant and the Respondent entered into a Private Residential Tenancy Agreement in respect of the property which commenced on 24 March 2025.
- 3.2 The Applicant complied with the pre-action requirements.
- 3.3 Ground 1 and ground 3 in Schedule 3 of the 2016 Act have been established.
- 3.4 It is reasonable to grant an order for eviction.

4) Issue For The Tribunal

- 4.1 The issue for the Tribunal is to determine whether or not to grant the order sought.
- 4.2 The grounds on which the Application proceeds are Ground 1 which states *inter alia*:

That the Land Lord intends to sell the property

and Ground 3 which states *inter alia* :

That the Land Lord intends to refurbish the property

- 4.3 The Tribunal was satisfied that the grounds had been met.
- 4.4 Therefore, the statutory ground and procedure being established, the issue for the Tribunal was to determine if it is reasonable to grant the order.

5) Decision and Reasons for Decision

- 5.1 The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah 1943 SC 245* whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the Application was made.
- 5.2 The Tribunal found that the Applicant is entitled to recovery of the property. The Tribunal had regard to the change of the Applicant's personal circumstances in that the Applicant is living 200miles from the property and cannot manage the tenancy at a distance. The Applicant has instructed an Estate Agent, Your Move who issued a letter including valuations current and after 'major' works are carried out. The Respondent did not oppose the basis of the grounds.
- 5.3 The Respondent has stated he is to be given priority from the local authority. He needs the Eviction Order before the Local Authority will accept his application for housing. The Tribunal gave weight to the fact that the Respondent was not defending the action.

5.4 Accordingly, the Tribunal was satisfied that it is reasonable to grant an order for eviction.

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.


Hilary Macandrew
Legal Member/Chair

Date: 29th June 2026