



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/26/0281

Re: Property at 9 Mitchell Place, Kirkcaldy, KY1 2PB (“the Property”)

Parties:

Mr Alister McConnell, 49 Bendmore Avenue, London, SE2 0EY (“the Applicant”)

Ms Diane Hutchison, 9 Mitchell Place, Kirkcaldy, KY1 2PB (“the Respondent”)

Tribunal Members:

Lindsay Paterson (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it was not reasonable to grant the order and refused the application.

Background

1. By way of application dated 20 January 2026, the Applicant sought an order under Section 51 and Ground 1 of schedule 3 of the 2016 Act and in terms of Rule 109 of the First-tier Tribunal for Scotland Housing & Property Chamber (Procedure) Regulations 2017 (“the procedure rules”).
2. A section 11 notice, tenancy agreement, notice to leave, and a letter dated 7 January 2026 from Morton Napier estate agents confirming instructions to sell the property, were all lodged with the application.
3. On 11 February 2026 the application was accepted and referred for determination by the Tribunal.
4. A copy of the application was served on the Respondent by sheriff officer on 8 July 2026 and parties were notified that a case management discussion (“CMD”) would take place by telephone call on 11 August 2026 at 2pm.
5. The Applicant did not attend the CMD but was represented by Ms Jacqueline Barr of Streets Ahead Scotland.
6. The Respondent attended the CMD and represented herself.

Case Management Discussion

7. Ms Barr advised the Tribunal at the outset of the hearing that she understood the Respondent had found somewhere else to live and would be moving out of the property. The Respondent confirmed that she will be moving out as soon as some work is finished in the bathroom of the alternative accommodation she has secured.
8. Ms Barr advised that she was still instructed to proceed with the application as the Applicant had no confirmation the Respondent was leaving and no date of termination of the tenancy agreement.
9. Ms Barr told the Tribunal the Applicant wishes to sell the property as he lives in London and the property is being managed by his mother. Ms Barr told the Tribunal the Applicant's mother is getting older and it is getting too much for the Applicant's mother to manage with all the changes in regulations. Ms Barr told the Tribunal that the low rent charged for the property meant it was not feasible for the Applicant to instruct an agent to manage the property. Ms Barr was not able to confirm the age of the Applicant's mother nor was she able to confirm when the Applicant moved to London, although she believes this was after the tenancy was granted.
10. Ms Barr told the Tribunal the Applicant was also aware that the Respondent had health problems which means the property is not suitable for her and that the Applicant was aware the Respondent was hoping to move out the property shortly anyway.
11. Ms Barr told the Tribunal the Applicant has already instructed an estate agent and made reference to the letter of 7 January 2026 lodged with the application. She advised that the Applicant has not yet obtained a home report as such reports are only valid for three months, but he intends to get one as soon as an order is granted and to sell the property as soon as possible.
12. Ms Barr told the Tribunal that although the tenancy agreement lodged with the application was granted in July 2025 the Respondent has been a tenant at the property for over 10 years. Ms Barr advised that there was originally no written tenancy agreement, but it was necessary to create one when the Respondent required to make an application for benefits.
13. Ms Barr told the Tribunal that the rent account was up to date and there had been no issues with nonpayment or delay in payment of rent.
14. Ms Barr told the Tribunal the Applicant has no mortgage on the property and is not experiencing any financial difficulties that necessitate selling the property.
15. The Respondent did not dispute anything said by Ms Barr.
16. The Respondent told the Tribunal she is 51 years old and lives alone.
17. The Respondent has a disability which she described to the Tribunal.
18. The Respondent confirmed she had lived at the property since June 2016. She described her time living there as "a nightmare". The Respondent told the Tribunal that the Applicant's mother is her mother's aunt and that she was persuaded to move into the property by her mother when the Applicant bought it. She told the Tribunal she regrets this and should never have moved in. She told the Tribunal that when she agreed to rent the property she was told she could live there as long as she liked, but after three years the Applicant started asking her to leave. The Respondent told the Tribunal that the Applicant wanted her to leave during COVID, then due to issues with the lack of written tenancy agreement but she was unable to obtain another property from the council because the Applicant never pursued the matter through the Tribunal.

19. The Respondent advised the Tribunal that she has now sourced alternative accommodation for reasons unrelated to the tribunal case, which were explained to the Tribunal. The Respondent told the Tribunal she has secured this accommodation and is eager to move in as soon as possible, but she cannot move in until work on the bathroom is completed.
20. The Respondent told the Tribunal the Applicant's mother has suggested to her that she might not move out. The Respondent told the Tribunal that she definitely intends to move out as the accommodation she has secured is much more suitable for her needs and she has no wish to remain living in the property.
21. The Respondent told the Tribunal she expects to have moved out within around 14 days.
22. Ms Barr did not dispute anything said by the Respondent.

Findings in Fact

23. The Applicant is the owner of the property and is entitled to sell it.
24. The Respondent is the tenant of the property and lives there alone.
25. Parties signed a Private Residential Tenancy Agreement ("PRT") on 28 July 2025 but had previously agreed terms of a tenancy at the property in June 2016 which was not put in writing.
26. The Applicant intends to sell the property and has instructed an estate agent. He has no immediate need to sell the property. He is not in any financial difficulties. He wishes to sell the property due to the legal requirements placed on him as a landlord which are being managed by his mother and which his mother now finds too onerous. He has chosen not to instruct an agent to manage the property due to the low rent.
27. The Applicant served the Respondent with a Notice to Leave the Property dated 17 September 2025 on 18 September 2025.
28. The Applicant provided a section 11 notice to the Local Authority on 20 January 2026.
29. The Respondent has secured alternative accommodation and intends to move out of the property. She does not require to be evicted to secure alternative accommodation, having already secured another property. The Respondent intends to move out as soon as outstanding work on the alternative accommodation is completed.

Reasons for Decision

30. The ground for eviction under which this application was made is the ground contained within paragraph 1 of schedule 3 of the 2016 Act. The ground is that the landlord intends to sell the let property.
31. In terms of paragraph 1(2) of schedule 3 of the 2016 Act the Tribunal may find the ground in paragraph 1 applies if the landlord (a) is entitled to sell the property, (b) intends to sell the property 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 it is reasonable to issue an eviction order on account of those facts.
32. The Tribunal accepted the undisputed evidence that the Applicant is entitled to sell the property, that he intends to sell the property within three months of the Respondent ceasing to occupy it, and that his reason for doing so is that his mother, who manages the property for him, finds it too onerous to continue

to do so. However, the Tribunal did not consider the Applicant's reason for selling the property sufficient grounds to make it reasonable to evict the Respondent on account of those facts. No evidence was provided of any specific changes to the statutory duties of landlords causing any negative impact on either the Applicant or his mother. The Tribunal did not consider it would be reasonable to evict the Respondent from her home because the Applicant feels his statutory obligations as a landlord are too onerous.

33. Furthermore, the Respondent has secured alternative accommodation and will shortly be in a position to vacate the premises voluntarily and provide the Applicant with vacant possession to enable him to sell the property. The Applicant does not require an eviction order to enable sale of the property in the circumstances. The Tribunal did not consider it reasonable to grant an eviction order where the Applicant does not require one to sell the property.

Decision

34. The Tribunal decided to exercise the power within Rule 17 of the procedure rules to make a decision on the application at the CMD as the Tribunal considered it had sufficient undisputed evidence before it to do so. The Tribunal determined that it is not reasonable to grant an eviction order in terms of Ground 1 of schedule 3 of the 2016 Act and so refused the application.

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.

11/08/26

Legal Member/Chair

Date