



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

Chamber Ref: FTS/HPC/EV/26/0058

Re: Property at 47 George Street, Nairn, IV12 5DT (“the Property”)

Parties:

Ms Jean Graham, 17 Thurlow Road, Nairn, IV12 4HJ (“the Applicant”)

Ms Laura Morton, 47 George Street, Nairn, IV12 5DT (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and David Fotheringham (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 7th January 2026. The application was submitted under Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 24th June 2026, all parties were written to with the date for the Case Management Discussion (“CMD”) of 30th July 2026 at 10am by teleconferencing. The letter also requested all written representations be submitted by 15th July 2026.
3. On 25th June 2026, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 25th June 2026.

4. On 15th July 2026, the Respondent's representative lodged a submission stating that she was not opposed to an order being granted. She is awaiting to be rehoused by her local authority but this is not able to happen before an order for eviction is granted by the Tribunal.

The Case Management Discussion

5. A CMD was held on 30th July 2026 at 10am by teleconferencing. The Applicant was present and was represented by Ms Alice Bruce, solicitor, MacLeod and MacCallum Solicitors. The Respondent was present and was represented by Ms Kathleen Cousins, Money Adviser, Nairn Citizens Advice Bureau.
6. The Tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
7. Ms Bruce said that the Applicant still wished to have an order for eviction to be granted by the Tribunal. The Applicant is 80 years old and wishes to no longer be a landlord. She has been living with her cousin who has now died. She now has the burden of her own residential living costs with one income as opposed to two when her cousin was alive. She has ongoing costs to address as a landlord. Currently her outgoings are £130 per month more than her income. She requires to sell the Property to resolve her financial issues. In addition the Applicant has several ongoing health conditions. Ms Bruce said that she is under investigation regarding other health issues.
8. The Applicant does not want to sell the Property with a sitting tenant. She has been told that it is more straightforward to sell with vacant possession. She believes that she would obtain a higher sale price with vacant possession.
9. Ms Cousins said that, as per her submission, the Respondent is not opposed to an order for eviction being granted. She has been told by her local authority that she will not be rehoused until such time as an order for eviction has been granted against her. In light of this the Respondent does not want the Order to be superseded (held back from being enforced for a set period of time) as it will only delay her being rehoused.
10. Ms Bruce confirmed that the rent has been kept up to date and there are no tenancy issues. This decision was made purely in terms of the Applicant's own personal position.
11. Ms Bruce also confirmed that there will be no need for a notice period to be provided by the Respondent if she is allocated a new property by her local authority. This is on the basis that she keeps either herself or the Applicant informed as to when she is moving out and on other end of tenancy matters.
12. Given all the evidence that was before it, the Tribunal was satisfied that it was reasonable to grant an order for eviction.

Findings and reason for decision

13. The Applicant is the registered owner of the Property.
14. A Private Rented Tenancy Agreement commenced 1st August 2023.
15. On 24th April 2025 the Applicant served upon the Respondent a Notice to Leave as required by the Act. Service was effected by email and the Notice became effective on 24th April 2025.
16. The notice informed the Respondents that the Applicant wished to seek recovery of possession using the provisions of the Act.
17. The notice was correctly drafted and gave appropriate periods of notice as required by law.
18. The notice set out one of the grounds contained within schedule 3 of the Act, namely ground 1 that the Applicant wants to sell the Property.
19. The Applicant now wants to sell the Property. The Applicant does not want to be a landlord anymore. The Property requires to be vacant before it is sold as there may be a reduction in the sale value for the Property. The Applicant believes that it will be more complicated to sell with a sitting tenant.
20. The Respondent is not opposed to the granting of an order. The Respondent has spoken to her local authority housing department who will not rehouse her until an order for eviction has been granted.
21. The basis for the order for possession on ground 1 was thus established.

Reasons for the decision

22. The Order for possession sought by the Applicant was based on a ground specified in the Act and properly narrated in the notice served upon the Respondent. The Tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the Applicant was entitled to seek recovery of possession based upon that ground.
23. The Tribunal accepted the evidence presented on behalf of the Applicant with regard to her intention to sell the Property.
24. The Applicant's representative advised the Tribunal that the Applicant no longer wishes to be a landlord. She is 80 years old and has ongoing health conditions. Her outgoings are £130 per month more than her income. Selling this property will resolve this issue.
25. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on ground 1 can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.

26. 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.
27. The Tribunal now has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant. 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:

“In 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”.

28. In this case the Tribunal finds that it is reasonable to grant the order.
29. The Respondent lodged a submission, through her representative, stating that she was not opposed to an order for eviction being granted. She will not be rehoused by her local authority until such time as a Tribunal grants an order for eviction.
30. The Tribunal decided to exercise the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.
31. The issue of reasonableness, while fully considered, was viewed in the context of the action not being opposed. Accordingly, this weighed in the favour of granting the Order. In all the circumstances the Tribunal decided that it was reasonable to grant the order sought.

Decision

32. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant.

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.

Gabrielle Miller

30th July 2026

Legal Member/Chair

Date