



**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/25/5156**

**Re: Property at Narnia, Casho, Quarff, Shetland Islands, ZE2 9EY (“the Property”)**

**Parties:**

**Mr Andrew Morrison, 9 Lambton Field, Sherburn Village, Durham, DH6 1NX (“the Applicant”)**

**Mr Ian Harms, Mrs Margaret Harms, Narnia, Casho, Quarff, Shetland Islands, ZE2 9EY; Narnia, Casho, Quarff, Shetland Islands, ZE2 9EY (“the Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of ground 4 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 13 August 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 4 as the ground for eviction, stating his intention to live in the property.

- 2 The application was accepted and referred to a tribunal for determination. A case management discussion (“CMD”) was scheduled to take place by teleconference on 13 July 2026. The Tribunal administration gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice, along with a copy of the case papers, was served upon the Respondents by email after they gave consent for this in writing. The Respondents further stated by email dated 26 June 2026 that they “*are not putting in any objections to the eviction notice from Mr Morrison*”.

### **The CMD**

- 3 The CMD took place on 13 July 2026 at 10am by teleconference. The Applicant and the Respondents both joined the call.
- 4 The tribunal had the following documents before it:-
  - (i) Form E application form and supporting documents including notice to leave and proof of delivery to the Respondents by email, notice under section 11 of the Homelessness etc (Scotland) Act 2003 (“section 11 notice”) and proof of delivery to the local authority, and affidavit by the Applicant;
  - (ii) Title sheet confirming the Applicant as the registered owner of the property and proof of the Applicant’s landlord registration;
- 5 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.
- 6 The Applicant explained that he had been working away from Shetland for the past few years and had let his home to the Respondents. The Applicant’s parents who live on the island are now elderly and suffering from ill health. He requires to return home to provide care and support to them. The property is only a five minute drive from his parent’s home. The Applicant has secured employment in Shetland and is ready to move back.
- 7 Mrs Harms spoke on behalf of the Respondents. The Respondents do not oppose the eviction order. The Applicant was clear to them at the start of the tenancy that the property was his family home, and he may wish to return at some point. The Respondents have been on the council’s housing list for ten years. The council have told the Respondents that their application will be prioritised once an eviction order is granted and they will likely be offered a council or housing association property. The Respondents wish to find a property that they can make their home in Shetland. They cannot afford any other private lets. The Respondents have no dependents living with them. They are aged 62 and 56.

## Findings in fact and law

- 8 The Applicant is the owner and landlord, and the Respondents are the tenants, of the property in terms of a private residential tenancy agreement, which commenced on 1 March 2019. The tenancy was entered into verbally and there is no written tenancy agreement in place between the parties.
- 9 The Applicant has given the Respondents a notice to leave within the meaning of section 62 of the 2016 Act. The notice to leave included ground 4. The notice was delivered by email. The Respondents consented to the use of email for the delivery of notices.
- 10 The Applicant has sent a section 11 notice to the local authority at the time of making this application.
- 11 The Applicant intends to live in the property as his only or principal home for at least three months after the Respondents have vacated.
- 12 The Applicant currently resides in England. The Applicant requires to move back to Shetland to care for his elderly parents who both suffer with ill health. The property is the Applicant's former home and is in close proximity to his parents' residence.
- 13 The Respondents do not oppose the application. The Respondents wish to be rehoused by the local authority. The local authority will not take action in this regard without an eviction order.
- 14 The Respondents are aged 62 and 56. The Respondents have no dependents residing with them.

## Reasons for decision

- 15 The tribunal was satisfied that it could make relevant findings in fact to reach a decision on the application based on the documents, which are referred to for their terms and incorporated in the findings in fact, and the submissions from the parties at the CMD. The tribunal considered that to do so would not be contrary to the interests of the parties in this case. The Respondents had explicitly stated that they did not oppose the application and there were no issues to be resolved that would require a hearing to be fixed.
- 16 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.*"
- 17 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 Respondents which cites ground 4 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.

- 18 The tribunal considered the terms of ground 4, which are contained in paragraph 4 of schedule 3 of the 2016 Act:-

*“Landlord intends to live in property*

*4 (1) It is an eviction ground that the landlord intends to live in the let property.*

*(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—*

*(a) the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months, and*

*(b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.*

*(3) References to the landlord in this paragraph—*

*(a) in a case where two or more persons jointly are the landlord under a tenancy, are to be read as referring to any one of them,*

*(b) in a case where the landlord holds the landlord's interest as a trustee under a trust, are to be read as referring to a person who is a beneficiary under the trust.*

*(4) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the landlord has that intention.”*

- 19 The tribunal determined based on the affidavit before it and the submissions from the parties at the CMD that the Applicant intends to live in the property for at least three months. He had provided credible reasons for this, namely his need to return home to be close to his elderly parents, and there was no contradictory evidence before the tribunal.
- 20 The tribunal therefore determined that paragraph 4(2)(a) was met.
- 21 The tribunal went on to consider the reasonableness of making an eviction order in this case in accordance with the terms of paragraphs 4(2)(a) of schedule 3 of the 2016 Act.
- 22 The tribunal gave significant weight to the Applicant's reasons for returning to live in the property, along with his property rights as the registered owner. The tribunal noted that the property was his former home, and he had been upfront with the Respondents regarding the prospect of him returning to it at some point in future.
- 23 The tribunal also considered the Respondents' circumstances. Whilst the risk of homelessness to the Respondents was a cause for concern, ultimately the tribunal gave most weight to the fact that they did not oppose the application. They required an eviction order so that they could progress an application for

housing with the local authority. This was their only option in terms of rehousing given the lack of affordable private lets.

24 The tribunal therefore considered there were no factors that weighed against the making of an eviction order in this case. As such, the tribunal determined that the provisions of paragraph 4 of schedule 3 of the 2016 Act had been met and made an eviction order under section 51 of the 2016 Act.

25 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

13 July 2026

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**Legal Member/Chair**

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**Date**