



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/26/0254

Re: Property at 75 Leith Walk, Dundee, DD2 4JL (“the Property”)

Parties:

Mr Andriy Sukhodub, 20 Provost Black Drive, Tayport, DD6 9HD (“the Applicant”)

Mr Keith Walsh, 75 Leith Walk, Dundee, DD2 4JL (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 5 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

1. An application was made under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for recovery of possession under a

private residential tenancy by the Applicant against the Respondent for the Property.

2. The application contained: -
 - a. the tenancy agreement,
 - b. the notice to leave with evidence of service
 - c. section 11 Notice with evidence of service
 - d. emails between landlord and his father
3. A case management discussion took place on 7 August 2026. In attendance was the applicant. Notice of the Case Management Discussion had been made by the sheriff officers on 3 July 2026. The respondent did not appear. The tribunal was prepared to proceed in their absence, given they had notice of the Case Management Discussion.

Discussion

4. The applicant advised that he sought an eviction order under ground 5 - The landlord's family member intends to live in the property. The applicant had submitted a copy of the tenancy agreement, the notice to leave, a section 11 notice, and emails between him and his father about living in the property.
5. The applicant advised that he wanted his father and his father's wife to move into the property. They were currently living in Ukraine in the city of Sumy. Sumy was subject to heavy bombardment from Russian forces; the Russians were now only 11 kilometres away from the city. He advised that his father's property is bombarded by the Russians on a daily basis. His father is 78 years old, and his wife is 68 years old. He advised that his father is a patriot and had not previously wanted to leave Ukraine; however, the situation had become more dangerous. He was on the phone to his father recently, and the whole place was rattling; missiles were falling in his garden; and there was damage from shattered glass. He advised that his father is not entitled to come to live in the UK unless the applicant can provide him with

accommodation which is not overcrowded. This is a Home Office requirement. His father could not move in with him as they would be overcrowded. The property is a 2-bedroom flat. He requires it to be vacant.

6. In relation to the tenant. He advised that he had been a tenant since 2016: originally a joint tenant and then moved to single-person tenancy in 2019. He had been a good tenant until around June 2025 when he started to have problems with rental payments. He had been a decent landlord and had written off £200; however, the arrears had been accruing and were now £2,607.50. The tenant had indicated that he would leave, but he had struggled to get social housing. The applicant was currently receiving the housing benefit part of Universal Credit, which paid for some of the rent but did not pay for it all. The tenant had not been communicating with the landlord regarding the arrears. The tenant was around 43 years old. He was a male. He resides in the property by himself. He has a dog in the property. The landlord did not think he was working as he is getting Housing Benefit for him. There was no major disagreement with the tenant; however, the tenant would now prefer to move to social housing, and he needs it for his father. The property is mortgaged.

Findings in Fact

7. The Tribunal found the following facts established: -
8. There existed a private residential tenancy.
9. The tenant was Keith Walsh
10. The landlord was Dr Andriy Sukhodub
11. The property was 75 Leith Walk, Dundee
12. It had commenced on 1 September 2019
13. A notice to leave was submitted. It refers to ground 5 and advises that the landlord's father and his wife will be arriving from Ukraine to escape the war and he needs the flat for them to live in. It is dated 18 October 2025, and 13 January 2026 is the date when the applicant can be brought to tribunal. There was evidence of service

14. A section 11 notice had been sent to the local authority advising that the landlord was seeking possession of the property. There was evidence of service.
15. There was an email from the applicant's father confirming that he intends to live in the property. The applicant's father and his wife were currently living in the city of Sumy, Ukraine. Sumy was subject to heavy bombardment from Russian forces; the Russians were now only 11 kilometres away from the city. Living in Sumy was dangerous for his father and his wife.
16. The tenant was a single male of 43 years of age. He had amassed rent arrears of £2607.50 as at 7 August 2026.

Reasons for Decision

17. Section 51 of the 2016 Act provides the Tribunal with the power to grant an order for eviction for a private residential tenancy if it finds that one of the grounds in Schedule 3 of the Act applies.
18. The ground on which the Applicant seeks eviction is ground 5. It is in the following terms:-

5 Family member intends to live in property

- (1) It is an eviction ground that a member of the landlord's family 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) a member of the landlord's family intends to occupy the let property as that person'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) A member of the landlord's family is to be regarded as having the intention mentioned in sub-paragraph (2) if—
 - (a) the family member is incapable of having, or expressing, that intention, and
 - (b) the landlord and (if different) a person entitled to make decisions about where the family member lives, intend that the family member will occupy the let property as the family member's only or principal home for at least 3 months.

(4) For the purposes of this paragraph, a person is a member of the landlord's family if the person is—

- (a) in a qualifying relationship with the landlord,
 - (b) a qualifying relative of the landlord,
 - (c) a qualifying relative of a person who is in a qualifying relationship with the landlord,
- or
- (d) in a qualifying relationship with a qualifying relative of the landlord.

(5) For the purposes of sub-paragraph (4)—

(a) two people are in a qualifying relationship with one another if they are—

- (i) married to each other,
- (ii) in a civil partnership with each other, or
- (iii) living together as though they were married,

(b) “a qualifying relative” means a parent, grandparent, child, grandchild, brother or sister,

(c) a relationship of the half blood is to be regarded as a relationship of the whole blood,

(d) a person's stepchild is to be regarded as the person's child,

(e) a person (“A”) is to be regarded as the child of another person (“B”), if A is being or has been treated by B as B's child.

(6) In a case where two or more persons jointly are the landlord under a tenancy, references to the landlord in this paragraph are to any one of them.

(7) Evidence tending to show that a member of the landlord's family has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the person has that intention.

19. The applicant's agent confirmed that they sought an order for eviction based on the fact that the landlord's family member intended to live in the property. The tribunal finds that the landlord's family member, his father, intends to occupy the let property as that person's only or principal home for at least three months and further that it would be reasonable to grant the order.

20. The applicant provided an email trail between himself and his father confirming that his father wished to live in the property at the case management discussions. He provided further information regarding the age of his father and the town in Ukraine where his father currently resided, and that living in that town had become progressively more dangerous with a constant regular bombardment from Russian forces. He explained that his father had previously wished to remain in his home country; however,

matters have become less safe as time has gone on. He required the flat to be vacated as the Home Office would not allow him to bring his father over until he had sufficient accommodation to house his father and his wife. We took all of those matters into account and considered they were all reasonable reasons as to why an order for eviction should be granted.

21. We also considered factors in relation to the tenant. The landlord explained that the tenant had been a reasonable tenant; however since 2025 he had stopped paying his rent, and there were increasing rent arrears. The tenant did not engage in the process of repaying the arrears. The landlord explained that the tenant also wished to secure social housing and therefore also sought an order for eviction. There were no reasons for refusing to grant an order for eviction which outweighed the reasons to grant it.

22. Accordingly, considering the papers before us and the oral submission by the applicant, the tribunal was prepared to grant the order for recovery of possession, given that ground 5 was met and in all the circumstances it appeared to us to be reasonable to grant the order.

Decision

23. The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 5 of Schedule 3 of the Private Housing (Tenancies)

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.

- Melanie Barbour

7 August 2026

Legal Member/Chair

Date