



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/26/0683

Re: Property at 15 Drysdale Avenue, Whitburn, Bathgate, West Lothian, EH47 0HF (“the Property”)

Parties:

Mrs Diane Hamilton, 7 Brighthouse Park Gait, Edinburgh, EH4 6QT (“the Applicant”)

Miss Emma Burns, 15 Drysdale Avenue, Whitburn, Bathgate, West Lothian, EH47 0HF (“the Respondent”)

Tribunal Members:

Hilary Macandrew (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision in absence of the Respondent

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 10th February 2026 the Applicant sought an order under Section 51(1) of the Private Housing (Tenancies) Scotland Act 2016 (**‘the Act’**) relying on Ground 1 (the Applicant wishes to sell 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 10 April 2026.
- 1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondent by sheriff officers on 30 July 2026.

1.4 The Applicant lodged the following documents in advance of the case management discussion (CMD):-

- Private Housing Tenancy Agreement
- Notice to Leave
- Section 11 Notice to Local Authority
- Letter from Brown and Partners Estate Agents

1.5 A Case Management Discussion was set to take place on 1 September 2026. Appropriate intimation was given to both Applicant and Respondent, the Respondent's intimation was made by Sheriff Officers on 3 August 2026.

2) The Case Management Discussion ('CMD')

2.1 The CMD took place by tele conference on 1 September 2026. The Applicant took part. The Respondent neither took part nor was represented. The start of the Hearing was delayed whilst the Clerk telephoned the Respondent. The call was answered by someone saying the phone had been left in a fast food restaurant. The tribunal was satisfied that the Respondent had received intimation of the CMD by Sheriff officers and the Hearing proceeded.

2.2 The Applicant sought the Eviction Order.

2.3 The Applicant explained that she wishes to sell her portfolio of three rental properties to fund her retirement and to take away the responsibility of running the properties given her retirement. She is retired. She has instructed Brown and Partners to market the property for sale as evidence by the letter from Brown and partners produced.

2.4 The Respondent's personal circumstances according to the Applicant are that she is not engaging with the Applicant. It is believed the Respondent may have two school age children living with her. It is believed the Respondent may have family living locally to the property. The Applicant stated she had been trying to make contact with the Respondent for months and months. The Applicant had been trying to carry out an inspection but the Respondent is not co-operating. The Respondent had been obstructive in so far as permitting a gas inspection check to be carried out. The rent is partly paid by Universal Credit. There are arrears, the Applicant said of about £1400 at the time of the Hearing. The property is a three bedroom end terrace house.

2.5 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 CMD 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 30 April 2019 with rent of £400 per month.
- 3.2 The Tenancy is a Private Rental Tenancy in terms of the Act..
- 3.3 On 24th September 2025 the Applicant served upon the Respondent a Notice to Leave. It became effective on 31st January 2026. The Section 11 Notice was served on 26th January. The Notices were correctly drafted and provided sufficient notice.
- 3.4 The basis for the Order for possession was accordingly established.

4) Issue For The Tribunal

- 4.1 The issue for the Tribunal is to determine whether or not it is reasonable to grant the Order.
- 4.2 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.
- 4.3 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 retired and wishing to realise the equity in a portfolio of properties to fund retirement and to remove the responsibilities of being a Landlord. The Applicant has approached an Estate Agent but will require refurbishment works to be undertaken before the property can be marketed for sale.
- 4.4 The Respondent has made no representation in opposition to the Application and did not take part in the CMD. The Respondent is not engaging with the Applicant.
- 4.5 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.

H. MacAndrew

Legal Member/Chair

14th September 2026
Date