

**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/26/1055

Re: Property at 122 Evan Barron Road, Inverness, IV2 4JD (“the Property”)

Parties:

Mr John Noble, 10 Mill Road Terrace, Mill Road, Nairn, IV12 5EG (“the Applicant”)

**Mr Kevin Ross, Miss Gemma Sala, 122 Evan Barron Road, Inverness, IV2 4JD
 (“the Respondent”)**

Tribunal Members:

Gabrielle Miller (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for an 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 6th March 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 namely that the Applicant wishes to sell the Property.
2. On 16th July 2026, all parties were written to with the date for the Case Management Discussion (“CMD”) of 20th August 2026 at 10am by teleconferencing. The letter also requested all written representations be submitted by 6th August 2026.
3. On 20th July 2026, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondents by leaving in the hands of the Second Named Respondent. This was evidenced by Certificate of Intimation dated 20th July 2026.

4. On 21st July 2026, the Applicant's representative emailed the Housing and Property Chamber lodging a statement of reasonableness for the Applicant.

The Case Management Discussion

5. A CMD was held on 20th August 2026 at 10am by teleconferencing. The Applicant was not present but was represented by Mr Phil Cochrane, Director, Tughan & Cochrane LLP. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD.
6. The Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.
7. Mr Cochrane confirmed that the Applicant still wished for an order for eviction to be made. He said that the Applicant will be 70 next year and wishes to retire from being a landlord. Mr Cochrane said that his firm just manages this property. This may be the only rental property that the Applicant has currently.
8. Mr Cochrane said that the Applicant and the Respondents have a good relationship. There is no issue regarding communication between them. They are regularly in touch. Mr Cochrane understands that the Respondents are not able to be allocated social housing until such time as an order has been granted against them. He has not heard from them directly on this point but believes that they wish for the eviction to proceed to allow them to be rehoused.
9. Mr Cochrane said that he believes it is an ex council property. It is an end terrace which is 2-3 bedrooms. The Respondents have 2 school aged children. The Property has not been adapted for any disabilities. There are no rent arrears or any other tenancy issues.
10. Mr Cochrane said that the Applicant requires vacant possession to allow for the widest selection of potential buyers including first time buyers. Having sitting tenants would greatly restrict who would be likely to buy the Property. The Applicant did give the Respondents the first opportunity to buy the Property but they were not able to purchase it.
11. The Tribunal considered it reasonable to grant an order for eviction.

Findings in fact and reason for decision

12. The Applicant is the registered owner of the Property.
13. A Private Rented Tenancy Agreement commenced 15th March 2021. The Respondents live in the Property with their two children who are school aged.
14. On 2nd December 2025 the Applicant served upon the tenant a Notice to Leave as required by the Act. Service was effected by sheriff officers service leaving

it in the hands of the Second Named Respondent. The Notice became effective on 2nd December 2025.

15. The Notice informed the Respondents that the Applicant wished to seek recovery of possession using the provisions of the Act.
16. The Notice was correctly drafted and gave appropriate periods of notice as required by law.
17. The Notice set out one of the grounds contained within schedule 3 of the Act, namely ground 1 (that the Applicant intends to sell the Property within three months of Respondents ceasing to occupy it).
18. The Applicant now intends to sell the Property at market value or at least put the Property up for sale within three months of the Respondents ceasing to occupy it.
19. The Applicant does not want to be a landlord anymore. The Applicant is now looking to retire from being a landlord. The Property requires to be vacant before it is sold or there will be a reduction in the sale value for the Property and a reduction in the range of buyers wishing to purchase it.
20. There are no other tenancy issues. The Applicant and the Respondent have a good relationship.
21. The Applicant is entitled to sell the Property.
22. The basis for the order for possession on ground 1 was thus established.

Reasons for the decision

23. 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.
24. The Tribunal accepted the evidence presented on behalf of the Applicant with regard to the intention to sell the Property.
25. The Applicant's representative advised the Tribunal that the Applicant now wishes to retire from being a landlord.
26. The Tribunal were satisfied that the Respondents were well aware of the proceedings. They had received the notice to leave on 2nd December 2025. They had received intimation of the CMD by service upon them by sheriff officers in 20th July 2026. The Tribunal noted that the Respondents had not attended the CMD nor had they provided any written representations setting out any reason why the order being sought should not be granted.

27. 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.
28. In determining whether it is reasonable to grant an 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.
29. 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:

“[I]n 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”.

30. The Respondents have lodged no written representations with the Tribunal despite being offered the opportunity to do so. They did not attend the CMD to provide any information to the Tribunal to dispute the information provided by the applicant nor to set out any reason why it would not be reasonable to grant the Order
31. In all the circumstances the Tribunal decided that it was reasonable to grant the order sought.
32. 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.

Decision

33. 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

Legal Member/Chair

Date: 20 August 2026