



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/26/0237

Re: Property at 10c Johnstone Street, Airdrie, ML6 6AZ (“the Property”)

Parties:

Smartnopoly Limited, 338 Gladsmuir Road, Glasgow, G52 2JY (“the Applicant”)

Mr Anthony Donoughue, 10c Johnstone Street, Airdrie, ML6 6AZ (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction relying on ground 1 (landlord intends to sell) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The Tribunal determined that it was reasonable to suspend enforcement of the order for a period of 4 months.

Background

1. By application dated 16 January 2026 the applicant seeks an order for eviction on the ground that they intend to sell the property. The application was heard alongside conjoined application FTS/HPC/CV/26/0244 seeking an order for payment in respect of arrears of rent.
2. The applicant lodged *inter alia* the following documents with the application:

- Copy tenancy agreement
 - Notice to leave with proof of service
 - Section 11 notice with proof of delivery
 - Terms of engagement letter with Amy Law Ltd regarding sale of the property
 - Rent statements
 - Copy correspondence/text messages between parties
3. The respondent lodged written submissions on 18 August 2026.

Case management discussion (“cmd”)– 20 August 2026 – teleconference

4. A cmd took place on 20 August 2026 via teleconference. Mr Osadolor, Director of the applicant company attended with his solicitor, Mr Devlin, Complete Clarity Solicitors. The respondent Mr Donoughue attended on his own behalf.
5. Mr Devlin sought an order for eviction. He stated that the applicant intended to sell the property for financial reasons. He stated that the applicant and his partner had recently experienced difficult personal circumstances and intended to sell the property in order to assist with the purchase of a family home. Mr Devlin stated that the monthly rent in the property had not increased since the tenancy commenced. The level of rent arrears had impacted on the applicant’s financial circumstances.
6. Mr Osadolor confirmed that he owned 3 other rental properties however, the other properties were not being sold.
7. Mr Donoughue did not dispute that the applicant had a genuine intention to sell the property. He stated that he was a welder/fabricator however he is not currently working and is receiving universal credit. Mr Donoughue stated that over the past year his health had deteriorated which had meant that he was unable to work. He stated that he had been looking for alternative accommodation in the private sector and the local authority without success. Mr Donoughue stated that rent charges in the private sector had become unaffordable. His mother had offered to act as a guarantor however as she was

retired this had not been possible. He stated that he had applied for local authority housing however the housing department advised him that until an eviction order was granted he did not have sufficient priority/points to be offered accommodation.

8. Mr Donoghue dispute the arrears in part. He accepted that in the period from October 2025 until May 2026 no rent had been paid however he stated that there had been a 3 month period previously when he had paid rent to the previous letting agent that was not reflected in the rent account.
9. Mr Donoghue stated that he lived with his dog and this made it more challenging to find alternative accommodation.
10. The Tribunal discussed that in his written submissions Mr Donoghue stated that he sought to defend the application and wished to obtain legal representation. Mr Donoghue stated that he wanted more time before he had to leave the property. He stated that he accepted that the applicant had a right to sell his property however, he needed time to find alternative accommodation. The Tribunal took time to ensure Mr Donoghue was aware that he could defend the action if he wished. An adjournment was offered to allow Mr Donoghue to consider whether he no longer sought to defend the application if a suspension was granted.
11. The Tribunal discussed what period of time Mr Donoghue sought. He stated that he sought a 4 or 5 month extension. He stated that he had recommenced rental payments and would maintain payments throughout the suspension period. He explained that his mother was providing financial support and that it was his intention to repay the arrears that were due. Mr Donoghue stated that if a suspension was not possible then he would wish to defend the application and request a hearing in order that he could try and obtain legal representation.
12. The Tribunal adjourned briefly to allow the Mr Osadolor and Mr Devlin to discuss the proposed suspension. Mr Devlin advised that the applicant would agree to a suspension provided that period was not so long as to prejudice the

applicant's efforts to sell the property and rent was covered during the period of suspension.

Findings in fact and law

13. Parties entered into a private residential tenancy agreement with a commencement date of 5 May 2023.
14. The applicant is the sole owner of the property.
15. A valid notice to leave was served on the respondent on 13 October 2025.
16. The applicant intends to sell the property.
17. The respondent is on the local authority waiting list for housing.
18. The respondent has been actively seeking alternative accommodation.
19. The respondent is currently receiving universal credit.
20. The respondent resides with his dog.
21. The respondent has rent arrears in relation to a number of months when rent was not paid however the specific figure is disputed.
22. It is reasonable to grant an order for eviction
23. It is reasonable to vary the date of enforcement of the eviction order until 20 December 2026.
- 24.** The respondent will continue to be liable for payment of rent during the period of suspension of enforcement.

Reasons for decision

25. Rule 17 (4) states:

The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

26. Rule 18 states:

Power to determine the proceedings without a hearing

18.—*(1) Subject to paragraph (2), the First-tier Tribunal—*

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

27. The Tribunal was satisfied that it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

28. Ground 1 states:

(1) It is an eviction ground that the landlord intends to sell the let property.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph

(1) applies if the landlord—

(a) is entitled to sell the let property,

(b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

29. The Tribunal accepted the evidence that the applicant intended to sell the property. This was not disputed by the respondent.

30. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against.

31. The Tribunal gave significant weight to the fact that the respondent did not oppose the order for eviction being granted and made no objection to the reasonableness of the order being granted. The Tribunal took into account Mr Devlin's submissions regarding Mr Olosodor's personal circumstances. The Tribunal determined that on balance it was reasonable to grant the order.

32. In relation to the respondent's request to vary the date of execution to allow a period of 4 or 5 months for him to find alternative accommodation the Tribunal determined that 4 months was a reasonable period to defer execution. The Tribunal gave weight to the fact that the respondent had been active in his search for accommodation and had approached the local authority and other private sector accommodation providers. The Tribunal accepted the respondent's evidence that he would receive additional priority from the local authority if an eviction order was granted.

33. The Tribunal gave weight to the fact that the respondent was not defending the action. The Tribunal took into account the respondent's submission that he suffered from poor mental health which had impacted him and that he had to

find accommodation which would accept this dog which made the search more challenging.

34. The Tribunal took into account that there were significant rent arrears however, rental payments had recently recommenced. Notwithstanding that, there was a risk that arrears would increase during the period of suspension.

35. The Tribunal determined that in light of the foregoing factors 4 months was a reasonable period of time to allow the respondent to remove from the property.

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.

Mary-Claire Kelly

Legal Member/Chair

20 August 2026_____
Date