

Housing and Property Chamber
First-tier Tribunal for Scotland



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/26/0422

Re: Property at 7 Jean Armour Place, Saltcoats, North Ayrshire, KA21 6EH (“the Property”)

Parties:

Mrs Jacqueline Lennox, 1 Hillhouse Gardens, Troon, KA10 6SZ (“the Applicant”)

Mr Cory McCallum, 7 Jean Armour Place, Saltcoats, North Ayrshire, KA21 6EH (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at 7 Jean Armour Place, Saltcoats, North Ayrshire, KA21 6EH under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees, and others together with their goods, gear and whole belongings forth and from the Property and to make the same void and redd that the Applicant or others in his name may enter thereon and peaceably possess and enjoy the same.

Background

1. This is an application for eviction for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The application is based

on Ground 1 (Landlord intends to sell the Property) of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act").

2. The application was accompanied by a Private Residential Tenancy Agreement dated 13 June 2019, a Notice to Leave dated 1 August 2025 with Sheriff Officers Execution dated 4 August 2025, an Agency Agreement from Lomond dated 23 January 2026, a mandate from Fraser Lennox and a Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 to North Ayrshire Council with addressed envelope dated 23 January 2026.
3. On 11 May 2026 the Applicant's solicitor also lodged an email and photographs from T Walsh Electricians.
4. On 27 July 2026 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 31 August 2026. The Respondent required to lodge written submissions by 17 August 2026. This paperwork was served on the Respondent by Chelsea Murray, Sheriff Officer, Glasgow on 26 July 2026 and the Execution of Service was received by the Tribunal administration.
5. The Respondent did not lodge any written representations by 17 August 2026.

Case Management Discussion

6. The Tribunal proceeded with the CMD on 31 August 2026 by way of teleconference. Ms McMillan from Wallace Hodge, Solicitors appeared on behalf of the Applicant. Ms Matheson from CHAP appeared for the Respondent.
7. The Tribunal had before it the Private Residential Tenancy Agreement dated 13 June 2019, the Notice to Leave dated 1 August 2025 with Sheriff Officers Execution dated 4 August 2025, the Agency Agreement from Lomond dated 23 January 2026, the mandate from Fraser Lennox, the Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003 to North Ayrshire Council with addressed envelope dated 23 January 2026 and the email and photographs from T Walsh Electricians. The Tribunal noted the terms of these documents.
8. Ms McMillan submitted the Applicant was seeking an order for eviction in terms of Ground 1 of Schedule 3 of the 2016 Act after the service of a Notice to Leave on 4 August 2025. She submitted the Property was a two bedroomed house. The Respondent was the sole tenant who lived with his partner and a child. She further submitted the Applicant was not a professional landlord and only owned this Property. She decided she wanted to sell the Property after she was diagnosed with breast cancer and although she is now cancer free, the Applicant still wants to sell. She explained that the current rent was £490 per month. Monthly costs including the mortgage, letting agents and insurance amounted to £415 not including any additional costs for landlord registration, repairs etc. The Applicant also had concerns

that the Respondent was mistreating the Property. Electricians had reported on 6 May that the Property was in a poor state and that they were not prepared to complete their works until the Property was cleaned. There was an inspection on 29 May 2026; the kitchen door and the skirting boards had been damaged by the Respondent's dog. The Property smelt of dog urine. The Applicant estimates that it will cost her about £10 000 to clean, repair and redecorate the Property before she could put it on the market. This was adding further to the Applicant's financial burden. The Applicant understood the Respondent had been in contact with the local Council.

9. For the Respondent Ms Matheson advised he had been offered a tenancy with the Council, but that works needed to be carried out to it. She advised if the Tribunal were minded to grant the order to evict that it be suspended for a period of two month. If the tenancy became available sooner, she would advise the Applicant's agents.
10. On being asked to clarify whether the Respondent opposed the application she confirmed he did not. On further questioning from the Tribunal Ms Matheson advised she had not seen the offer letter from the Council. The Respondent had been referred to CHAP by the Homeless Team. She was uncertain as to the Respondent's child's age.
11. The Tribunal invited Ms McMillan to respond to the submissions made on behalf of the Respondent. She submitted any extension of the order would impact on the Applicant who was concerned about further damage to the Property. She submitted the Respondent would be in a stronger position to get a tenancy from the Council if the order to evict were granted without an extension.

Reasons for Decision

12. The Tribunal considered the issues set out in the application together with the documents lodged in support.
13. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 1, namely the Landlord intends to sell the Property. This is a discretionary ground of eviction. As well as being satisfied the facts have been established to support the grounds, the Tribunal has to be satisfied that it is reasonable to evict.
14. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave, unless it is not made in breach of any of sections 54 to 56 and unless the eviction ground applied for is stated in the Notice to Leave accompanying the application.

15. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states it is the Applicant's intention to sell the Property at Part 2 of the Notice in terms of Ground 1 of schedule 3. The Notice to Leave specifies the date the landlord expects to become entitled to make an application for an eviction order and specifies a date in terms of Section 54(2) in this case 31 October 2025. In this case the Notice to Leave was received by the Respondent on 4 August 2025. In terms of Section 54 the notice period of the Notice to Leave is 84 days. In the circumstances, the Tribunal is satisfied the Respondent has been given sufficient notice. Accordingly, the Notice to Leave served on the Respondent complies with Section 62 (1).
16. The Tribunal considered the submissions made on behalf of both parties. The Tribunal was satisfied on the basis of the documents lodged, together with parties' submissions that the factual basis of the application had been established in relation to Ground 1 and was satisfied the Applicant intended to sell the Property. However, Ground 1 is a discretionary ground of eviction. The Tribunal also has to be satisfied that it is reasonable to evict.
17. In determining whether it is reasonable to grant the order, the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal was satisfied that the Applicant's intention was to sell the Property when she obtained possession. Her reason for doing so was personal when she diagnosed with cancer. It was also related to the continuing financial viability of keeping the Property on. It was also understandable that the Applicant was concerned about the state of the Property. The Tribunal gave considerable weight to those facts. On the other hand, the Tribunal gave weight to the fact that the Respondent did not oppose the application and had sensibly sought help from the local Council with rehousing. The Tribunal gave considerable weight to the fact that the Respondent had been offered a tenancy from the local council. All things considered, the Tribunal considered the balance of reasonableness in this case weighted towards the Applicant. The Tribunal find it would be reasonable to grant the order.
18. In the circumstances the Tribunal considered that in terms of Ground 1 of Schedule 3 it was reasonable to grant an eviction Order in terms of Section 51 of the 2016 Act.

Decision

19. The Tribunal granted an order for repossession, superseded by a period of two months to allow further time for the Council to carry out repairs to the tenancy offered to the Respondent. 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.

Shirley Evans

31 August 2026

Legal Member

Date