



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/26/0765

Re: Property at 106B Clepington Road, Dundee, DD3 7SX (“the Property”)

Parties:

Mrs Avril Walker as Executor of the late David Walker, 34 Mains Drive, Dundee, DD4 9BW (“the Applicant”)

Miss Nicola Doogan, 106B Clepington Road, Dundee, DD3 7SX (“the Respondent”)

Tribunal Members:

Elaine Paton (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Applicant)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant.

Background

1. An application lodged on behalf of the Applicant was received by the Housing and Property Chamber (HPC) on 13 February 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 Applicant seeks an eviction order in terms of Section 51 and ground 1 of Schedule 3 of the 2016 Act. Submitted with the application was a tenancy agreement, Notice to Leave with evidence of service, Section 11 notice to the local authority, copy death certificate, copy Confirmation dated 16 June 2025 granted by The Commissariat of Tayside, Central and Fife at Dundee with relative inventory of the estate of the late Mr David Walker. The application was accepted on 14 April 2026.

2. A copy of the application was served on the Respondent at the Property by Sheriff Officers on 04 August 2026. Both parties were notified that a case management discussion ("CMD") would take place by teleconference call on 08 September 2026 at 10am and that they were required to participate. The Respondent was invited to submit written representations in response to the application by 20 August 2026. On or around 14 August 2026 a mandate by the Respondent authorising solicitors at Dundee Law Centre to represent her was sent to the HPC administration. On 31 August 2026, written submissions with supporting documents on behalf of the Applicant were received by the HPC administration. On 07 September 2026, written submission on behalf of the Respondent responding to the Applicant's submissions of 31 August 2026 were received by the HPC administration.
3. In advance of the CMD, on the afternoon of 07 September 2026 the HPC received a telephone call from the Applicant's solicitor Mrs Carol Parratt stating she was unable to attend the CMD, there would be no attendance by or on behalf of the Applicant however she wanted the CMD to proceed on the basis of the written submissions lodged on 31 August 2026. Mrs Parratt confirmed this position in an email sent to the HPC some minutes later. The Tribunal was made aware of the telephone call and received Mrs Parratt's email was forwarded to the Tribunal on the CMD.
4. The CMD took place on 08 September 2026 by telephone conference call. As anticipated, the Applicant was not present nor was her solicitor. The Respondent was present and was represented by Mr Robert Gibson of Dundee Law Centre.

Summary of Discussion at CMD

5. The Tribunal made introductory comments then explained the absence of the Applicant's solicitor, in terms of her telephone call and email the previous day, and the position on behalf of the Applicant, was that the CMD should proceed on the basis of the submission lodged on 31 August 2026. The Tribunal went on to explain the purpose of the CMD and set out how it proposed the discussion to proceed.
6. The Tribunal clarified with the Respondent that she had received the application papers served by Sheriff Officers and she stated she had. The Tribunal noted the pre-action documents lodged with the application. Mr Gibson stated that he had no difficulty with the Notice to Leave and relative service and acknowledged a Section 11 notice was sent to the local authority on behalf of the Applicant. The Tribunal noted a death certificate and executry papers had been submitted in relation to the Applicant's entitlement to sell the Property. Mr Gibson stated there was no issue with those documents and it was accepted the Applicant was entitled to sell the Property. The Tribunal asked Mr Gibson about the tenancy arrangement and how long the Respondent had resided in the Property as it had noted the tenancy agreement produced states the tenancy commenced on 01 August 2020 but the agreement was signed by the tenant and her landlord on 14 May 2024. Mr Gibson stated the Respondent is believed to have occupied the Property for approximately 12 years however the tenancy agreement reflected the current arrangement which was a private residential tenancy.

7. In response to the Tribunal highlighting the Applicant's submission dated 31 August 2026 refers to copy correspondences regarding advice provided to the Respondent on earlier dates by Mr Gibson's colleague which explained to the Respondent that in the circumstances involving a sale by an executor, the Tribunal could find that it was reasonable to grant an eviction order, Mr Gibson stated that his colleague's advice could change where circumstances develop. Mr Gibson stated that in his colleague's written submission, received by the Tribunal the previous day, while it is accepted there is a duty on an executor to achieve the best price for the beneficiaries, it is for the executor to obtain the best price that may be achieved, and the Tribunal's role is to balance the rights and interests of the parties to the application.
8. Mr Gibson stated that matters regarding the application rested on whether or not it is reasonable for an eviction order to be granted. In terms of the Respondent's circumstances, Mr Gibson stated that the Respondent was well settled in the Property and had occupied it, as alluded to already, for approximately 12 years albeit the Respondent's current tenure is in terms of the private residential tenancy agreement produced with the application; the Property suits the Respondent's needs as it is a one-bedroom ground floor flat with exclusive use of a garden which she has the enjoyment of. Mr Gibson stated the Respondent has arthritis in relation to which she takes medication on an on/off basis; and she has two cats and a dog. Mr Gibson stated: if the Respondent is evicted from the Property, she would likely be placed in temporary accommodation and it is the Respondent's understanding that no pets are permitted in temporary accommodation; during her occupation of the Property the Respondent has always paid her rent and is not in arrears. Mr Gibson continued: eviction would have a potentially detrimental impact upon the Respondent's physical health in addition to her mental health as well as her financial wellbeing. The Tribunal noted the rent is £392 per calendar month due in advance, which Mr Gibson stated the Respondent was aware was low. The Respondent works three days a week as a hairdresser and is in receipt of universal credit benefits. The Respondent stated that her universal credit payments are received by her and she then pays over her rent for the Property. The Respondent is 45 years old, she is the sole occupant and there are no other residents living in the Property. In response to the Tribunal, the Respondent stated she had been in contact with the local homeless department and had a meeting about her housing options. The Respondent stated she had been told about temporary accommodation, she mentioned those properties would not be suitable and she was told there was no available housing, continuing to explain that so many people were looking for housing and she was very low on the list; she stated after she left the meeting, she was very upset. Responding to the Tribunal, the Respondent stated she was told that she would get more points once she had an eviction date, however due to the numbers of people she could end up in temporary accommodation until she might get a permanent offer. The Respondent was asked by the Tribunal, what she wanted the outcome of the application to be and she stated that she was hopeful for a sale of the Property with her as a sitting tenant and she had been given false hope by the Applicant that that might happen. The Respondent stated she was looking at other houses available for private let just now but they were much more expensive, stating that she is aware her rent is low and she is able to pay a bit more but nothing suitable was available that she can afford.

Further responding to the Tribunal, the Respondent stated that additional time of approximately two or three months would help her to search for alternative accommodation. The Tribunal had noted in the Applicant's submissions that the Respondent had made an approach regarding her uncle making an offer to purchase the Property with her remaining as tenant however the low rent was a factor in that not progressing. The Respondent explained this was a family friend who she called her uncle: he had viewed the house and the Applicant or her solicitor had arranged for a surveyor to quote a valuation, her uncle/family friend then offered £5,000 less than the surveyor's valuation as there is a lot of work needing done to the Property, that offer was not accepted and the Applicant's solicitor Mrs Parratt had said it was far too low describing it as cheeky despite her never having viewed the flat. The Respondent explained that about three months passed and she was told the offer was acceptable but by that time the Respondent's uncle/friend had bought somewhere else. Responding to the Tribunal, the Respondent said the offer proposal had been made approximately a month after she had received the Notice to Leave. The Respondent agreed that her monthly rent of £392 was low, during her time in the Property the rent had been increased only once but the current tenancy agreement (starting on 01 August 2020) was still the same rent. Further responding to the Tribunal, the Respondent stated she had not sought advice from any agencies about her financial position.

9. The Tribunal asked if those present wanted to add anything further to what had been said already. Mr Gibson stated he simply wanted to reiterate his colleague's written submission in respect of it being for the executor to consider the best price that can be legally obtained. The Respondent stated rents she was seeing were far too expensive and most houses were located on the top floors therefore unsuitable for her. The Tribunal adjourned for a period, before re-convening.

Findings in Fact

10. The Applicant is the Executrix Dative *qua wife* of the late David Walker who died on 16 January 2025. The late David Walker is the landlord in terms of the tenancy agreement. Confirmation was granted on 16 June 2025 by the Commissariat of Tayside, Central and Fife at Dundee.
11. The Applicant holds the interest of the registered proprietor and the landlord's interest in the Property.
12. The Respondent is the tenant of the Property in terms of a private residential tenancy agreement which commenced on 01 August 2026.
13. The Applicant's representative served a Notice to Leave on the Respondent on 05 November 2025.
14. The Respondent resides in the Property alone.
15. The Respondent has resided at the Property from the commencement of her current tenancy arrangement in 2020 and is still in occupation of the Property.

Reasons for Decision

16. The application was submitted with a copy signed Private Residential Tenancy agreement. The Respondent has resided at the Property since at least 01 August 2020.
17. The application was also submitted with a Notice to Leave dated 05 November 2026 sent to the Respondent on even date, together with evidence of service via recorded delivery post. The Notice states that an application to the Tribunal is to be made on ground 1 (the landlord intends to sell the let Property), attached a copy death certificate, and stated an application will not be submitted for an eviction order before 03 February 2026.
18. The application to the Tribunal was made after expiry of the period specified in the Notice to Leave. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
19. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
20. Ground 1 of schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) 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 had 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."*
21. The Tribunal accepted the unchallenged documents submitted with the application, namely the private residential tenancy agreement, Notice to Leave with relative evidence of service, Section 11 notice to the local authority and relative evidence of service, copy death certificate, and copy Confirmation dated 16 June 2025 granted by the Commissariat of Tayside, Central and Fife at Dundee with relative inventory of the estate of the late Mr David Walker. The Applicant is appointed as the Executrix Dative *qua* wife of the late David Walker and has instructed a solicitor in connection with the estate's affairs.

22. In relation to Ground 1, the Tribunal is satisfied that the Applicant is entitled to sell the let Property. The Tribunal has noted that the Applicant has appointed her solicitor in relation to matters concerning her late husband's estate; and the late David Walker's two children, as beneficiaries, want the Property to be sold. The Respondent's representative has accepted that it is the Applicant's intention to sell the Property and that she is under a duty to the beneficiaries to obtain the best price that may be achieved for the Property. Ground 1 is therefore established.
23. The Tribunal proceeded to consider the following on whether or not it would be reasonable to grant the order:
- (a) The Tribunal noted the beneficiaries in the estate of the late David Walker find themselves in a situation not of their own making and do not want to be a landlord(s); more particularly, the late Mr Walker's two children, as beneficiaries, want the Property to be sold.
 - (b) The Tribunal noted that approximately a month after the Notice to Leave had been received by the Respondent, a family friend/uncle of the Respondent proposed a potential purchase of the Property, a surveyor was instructed by or on behalf of the Applicant regarding a valuation and it was stated the figure discussed was at a significantly lower price than the valuation obtained.
 - (c) The Tribunal noted the Respondent has resided in the Property for over six years and resides there alone, and she is of the view that the Property needs a lot of work done to it.
 - (d) The Tribunal noted the Respondent is 45 years old; she is the sole occupant; and has two cats and one dog.
 - (e) The Tribunal noted the Respondent has arthritis and takes medication as and when required for this; also, that at present she is concerned about finding alternative accommodation suitable for her to keep her pets with her, and also an increased rental cost.
 - (f) The Tribunal is satisfied the Respondent approached the local authority for advice regarding her housing options. The Tribunal noted the Respondent has been told by the local authority that she would gain more points once she has an eviction date.
 - (g) The Tribunal noted the Respondent has not approached other agencies in relation to advice regarding her financial position.
 - (h) The Tribunal is satisfied the Respondent is a part-time hairdresser, working 3 days a week, and she is in receipt of universal credit benefits.
 - (i) The Tribunal is satisfied the rent of £392 per calendar month being paid by the Respondent is low and she would likely be required to pay a higher sum

of rent in alternative accommodation, a position acknowledged by the Respondent.

The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act that ground 1 has been established. For the reasons outlined in paragraph 22, weighing the competing interests of the parties, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction, but determined additional time be allowed to the Respondent for her to initiate priority (and/or advance any existing) supports regarding alternative housing and financial and welfare benefits, as necessary.

Decision

The Tribunal determines that an eviction order should be granted against the Respondent, with the earliest date of eviction in said order stated as 09 November 2026.

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.

Elaine Paton, Legal Member

08 September 2026