

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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/26/0500

Re: Property at 0/1, 2 Montgomery Avenue, Paisley, Renfrewshire, PA3 4PX (“the Property”)

Parties:

Mrs Aileen Heriot, 5 Woodlands Avenue, Paisley, Renfrewshire, PA2 8BH (“the Applicant”)

Miss Caroline Mullen, 0/1, 2 Montgomery Avenue, Paisley, Renfrewshire, PA3 4PX (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of paragraph 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) are met in this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act and determined to suspend execution of the order until 31 December 2026.

In terms of section 54(1) of the 2016 Act, the private residential tenancy between the parties will end on 31 December 2026.

Background

- 1 This is an application for an eviction order under section 51 of the 2016 Act and Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant relied upon ground 1 of schedule 3 of the 2016 Act, stating her intention to sell the property.

- 2 The application was accepted as valid and referred to a Tribunal for determination. A case management discussion (“CMD”) was scheduled to take place on 26 August 2026 at 2pm. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 24 July 2026 and required the Respondent to make written representations in response to the application no later than 13 August 2026. No written representations were received from the Respondent in advance of the CMD.

The CMD

- 3 The CMD took place by teleconference on 26 August 2026. The Applicant was represented by Mr Joseph Quaradeghini of Martin and Co. Mr Quaradeghini was accompanied by his colleague Maria Turnbull. The Respondent joined the call and was accompanied by her mother as a supporter.
- 4 The Tribunal had the following documents before it:-
 - (i) Form E application form and supporting documents including private residential tenancy agreement, notice to leave and proof of delivery to the Respondent, section 11 notice and proof of delivery to the local authority, terms of business between Martin and Co and the Applicant pertaining to the sale of the property, and formal offer dated 6 October 2025.
 - (ii) Title sheet confirming the Applicant’s ownership of the property and proof of the Applicant’s landlord registration.
- 5 The Tribunal explained the purpose of the CMD and proceeded to hear submissions from the parties. The following is a summary of the key elements of the submissions.
- 6 Mr Quaradeghini explained that the application was straightforward. The Applicant had decided in 2025 that she no longer wished to continue renting out the property. It was not financially viable. Martin and Co let the Respondent know that she would be given a notice to leave, which was sent to the Respondent on 21 October 2025. The Respondent had immediately advised, and has continued to state, that she would not leave the property until the council rehoused her. The Applicant had a buyer for the property lined up but the sale fell through as it was conditional on vacant possession. The prospective buyer withdrew in February 2026 as they could not wait any longer. The Applicant has another rental property in her name which she also plans to sell but she is waiting to see the outcome of this application. She has been quite upset by the process. The Applicant is past retirement age. Mr Quaradeghini believes she wishes to sell the property to fund her retirement.
- 7 The Respondent confirmed that she has not yet vacated the property as she wishes to be rehoused in council accommodation. She has three children aged 6, 14 and 15. All go to different schools. If evicted, the Respondent had serious

concerns about their future schooling and living arrangements. The Respondent also advised the Tribunal of health issues within the family. As a result of these they require a four bedroom property. The Respondent currently has nowhere to go. She objected to the eviction order on that basis. She does not believe it would be reasonable for it to be granted at this time, albeit she does not dispute the Applicant's intention to sell the property.

- 8 The Respondent confirmed that she has spoken to the local authority in depth. She has gone through various channels. At present there is no social housing available that could accommodate her. There is a new development in the area but the houses won't be ready until December. The Respondent has been told she is at the top of the housing list. She just has to wait. She has been in constant contact with the local authority. She has a housing officer. She has been advised by the local authority to present as homeless once she gets her eviction order.
- 9 Mr Quaradeghini explained that the Applicant just wants to move on with her life. The tenancy is no longer economically viable. The Applicant is losing money. The rent is less than market value. The Applicant has not sought to impose a higher rent on the Respondent. It is now ten months since the notice to leave was sent to the Respondent. Martin and Co have made the Respondent aware of alternative accommodation but the Respondent has made it clear that she does not want to continue in the private rental sector. The Respondent's requirements have increased to a four bedroom property which are very rare. Mr Quaradeghini did not think extending the period for enforcement of the order would make a difference. It will drag out the process. The eviction order should be the catalyst to secure the Respondent assistance from the local authority.
- 10 The Tribunal adjourned the CMD to deliberate before resuming the proceedings and confirming the outcome.

Findings in fact and law

- 11 The Applicant is the owner and landlord, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement, which commenced on 20 September 2019.
- 12 The Applicant has given the Respondent a notice to leave within the meaning of section 62 of the 2016 Act. The notice to leave includes ground 1. The notice to leave was emailed to the Respondent. The Respondent consented to the use of email for the delivery of notices under the terms of the tenancy agreement between the parties.
- 13 The Applicant has given the local authority a section 11 notice within the meaning of section 56 of the 2016 Act.

- 14 The Applicant is entitled to sell the property as the registered owner. The Applicant intends to sell the property, or market it for sale, within three months of the Respondent vacating.
- 15 The Applicant previously received an offer to purchase the property which was subsequently withdrawn. The Applicant has instructed Martin and Co to market and sell the property on her behalf.
- 16 The Applicant is beyond retirement age.
- 17 The Respondent resides in the property with her three children aged 6, 14 and 15. There are health issues within the family.
- 18 The Respondent's children all attend different schools in the local area. The Respondent requires to stay in the local area to avoid splitting up her family.
- 19 The Respondent wishes to secure housing with the local authority. The local authority presently has no suitable accommodation in the local area. There is social housing being developed in the local area which may be available in December this year. The Respondent is at the top of the housing list.
- 20 Were an eviction order to be granted at this time, the Respondent may be placed outwith the local area.
- 21 It is reasonable to grant an eviction order provided execution of the order is suspended until the end of December 2026.

Reasons for decision

- 22 The Tribunal was satisfied that it could make relevant findings in fact to reach a decision on the application based on the documentary evidence and submissions from the parties at the CMD, and that to do so would not be contrary to the interests of the parties in this case.
- 23 Section 51 of the 2016 Act provides that "*The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.*"
- 24 Section 52 of the 2016 Act goes on to state that "*an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant.*" The Tribunal had before it a copy of a notice to leave in the prescribed form that had been sent to the Respondent which cites ground 1 of schedule 3 of the 2016 Act. The Tribunal was also satisfied that the Applicant had sent a section 11 notice to the local authority in accordance with the requirements of section 56 of the 2016 Act.
- 25 The Tribunal considered the terms of ground 1, which are contained in paragraph 1 of schedule 3 of the 2016 Act:-

“Landlord intends to sell

1(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.”

- 26 The Tribunal determined based on the documents before it and the submissions from the parties at the CMD that the Applicant is entitled to sell the property as the registered owner and intends to do so within three months of the Respondent vacating. The Respondent did not dispute this.
- 27 The Tribunal therefore determined that paragraph 1(2)(a) and (b) of schedule 3 of the 2016 Act were met.
- 28 The Tribunal went on to consider the reasonableness of making an eviction order in this case in accordance with the terms of paragraphs 1(2)(c) of schedule 3 of the 2016 Act.
- 29 The Tribunal considered the Applicant's property rights as the heritable owner of the property, which entitles her to dispose of it as she sees fit. The Tribunal also considered her reasons for selling the property, namely to remove herself from the private rental sector as she no longer wishes to be a landlord. The Tribunal could understand her frustration with the length of time it had taken to reach this stage in the Tribunal process. However, such matters were outwith the control of both the Tribunal and the Respondent.
- 30 The Respondent's position is that it would not be reasonable at this stage for the eviction order to be granted given the lack of available social housing in the local area. This was the only factor she sought to rely upon in her opposition to the eviction order. The Tribunal considered the risks to her and her household were it to make an eviction order at this time, in terms of the prospect of the Respondent being placed outwith the local area which would likely result in her family splitting to accommodate her children's education.

- 31 The Tribunal further noted that the Respondent had indicated that that new social accommodation was being completed in December, and that she was placed high on the housing list.
- 32 The Tribunal therefore considered that it would be reasonable to make an eviction order in this case, if execution of the order was suspended up until 31 December 2026 to give the local authority sufficient time to source suitable accommodation for the Respondent and her family. Whilst the Tribunal was conscious of the Applicant's circumstances and frustrations, having balanced the competing interests of the parties in this case, the Tribunal considered this would provide the parties with certainty and prevent the need for any further procedure in the case.
- 33 Accordingly, having considered those factors relevant to reasonableness, the Tribunal determined that the provisions of paragraph 1 of schedule 3 of the 2016 Act had been met and made an eviction order under section 51 of the 2016 Act with execution of the order suspended until 31 December 2026.
- 34 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.

Ruth O'Hare

31 August 2026

Legal Member/Chair

Date