

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 (“the Act”)

Chamber Ref: FTS/HPC/EV/26/0830

Re: Property at 135 HAZEL ROAD, ABRONHILL, CUMBERNAULD, G67 3BW (“the Property”)

Parties:

MRS SHAHILA BEGUM, Tariq Nazir, 24 COLTAN DRIVE, FALKIRK, FK2 7GE; unknown, unknown (“the Applicant”)

MR THOMAS JOHNSTONE, 135 HAZEL ROAD, ABRONHILL, CUMBERNAULD, G67 3BW (“the Respondent”)

Tribunal Members:

Fiona Stephen (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. By application dated 19 February 2026, the Applicant seeks an Eviction Order under Section 51 (1) and Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The application also proceeds in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant intends to sell the property. The Application is accompanied by a copy of the tenancy agreement and the notice to leave with proof of service. The relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 is also produced. The Applicant provides a letter from K Property, 18-20 Baronhill, Cumbernauld, Cumbernauld Village, G67 2SB confirming that they will market the property for sale once vacant possession is obtained.

2. The Application was accepted by the Tribunal on 4 June 2026 and referred for determination by the Tribunal.
3. The Respondent was served with the papers in this case (by letterbox) by Sheriff Officers on 24 August 2026 conform to Execution of Service of the same date.
4. A CMD was fixed for 14 October 2026 at 2pm by teleconference call and written representations were to be lodged with the Tribunal by 11 September 2026. No written representations have been received.
5. The Tribunal had before it:
 - (i) The Application Form E;
 - (ii) A Tenancy Agreement between Shahila Begum, the First Applicant and the Respondent dated 30 September 2022;
 - (iii) Confirmation from the Scottish Landlord Register that the Property is registered in the name of the Applicant;
 - (iv) Copy Title Sheet (DMB28745) confirming that the Applicant owns the Property;
 - (v) Confirmation from the Landlord that a representative from K Property, 18-20 Baronhill, Cumbernauld, Cumbernauld Village, G67 2SB could appear on their behalf; and
 - (vi) Case Papers.

Case Management Discussion

6. A Case Management Discussion (CMD) took place on 14 October 2026 at 2pm by teleconference call. Ms Cramb of K Property appeared for the Applicant. There was no appearance by the Respondent although the Tribunal delayed the start of the CMD by a few minutes.
7. The Tribunal explained the purpose of the CMD and the powers of the Tribunal to determine matters. The Tribunal asked various questions with regard to the application.
8. Ms Cramb relied on the application and papers lodged in support of it. She explained that the Applicant had decided to sell the Property because the situation with the Respondent had become too stressful. The Respondent had been a good tenant at the start of the tenancy. He had paid his rent and there had been no issues. An incident took place on 22 January 2025 when the bedroom window in the Property had been smashed in and the police had attended. Ms Cramb did not know why this had happened. There was a second incident on 23 August 2025 when the Applicant had received a call from the police to say they had forced entry and arrangements would need to be made to secure the Property. Ms Cramb attended the Property whilst the police were present. The Respondent had been arrested and taken into

custody. The police were present in the Property for a period of time and arranged to put the spare key through the door once they had finished and locked up.

9. Following this incident, there was no communication from the Respondent and he stopped paying rent. The Applicant decided they wanted to sell the Property. The Applicant rents out one other property and they have a good tenant there although may sell up if the tenant moves out. There has been no rent paid since 30 August 2025 as shown in the up-to-date rental statement produced. Ms Cramb had not heard anything from the Respondent following service of the Notice to Leave. The Notice was issued by email on 27 August 2025 although it was dated 28 August. Ms Cramb could not explain why this was so. She had used the Scottish Government online tool. The Tribunal asked if there was any reason for the delay between expiry of the Notice to Leave and raising this application (almost 3 months). Ms Cramb said that the Applicant wanted to see if anything might change but it did not. The raising of this application was the last thing that the Applicant wanted to do.
10. The Tribunal noted from Ms Cramb that the Respondent is in his late 40's/early 50's and lives in the Property on his own. It is a one bedroomed flat. There has been no rent paid for 14 months. Ms Cramb was unaware of why that was so other than the Respondent had been taken into custody after the incident in August 2025 and prior to that he said he had been in hospital for a period of time. The Respondent had been working when he first became a tenant. When the Respondent fell into arrears (prior to the August 2025 incident) Ms Cramb said her company's policy was that tenants are reminded about their rental payment by text and email and also telephone calls. The Respondent did not communicate at all after the police incident. Ms Cramb said that she believed the Respondent was still living in the Property as she has driven by and it looks occupied. Ms Cramb has had no contact from the local authority since service of the Section 11 Notice. In her experience, they do not usually make contact until after an eviction order has been granted.
11. The Tribunal members adjourned for a short period to discuss matters. On reconvening, the Tribunal informed Ms Cramb that it was satisfied that the ground for eviction had been established and that it was reasonable to grant the eviction order. A written decision confirming this would be issued as soon as possible.

Findings in Fact

12. The First Applicant let the property to the Respondent by virtue of a Private Residential Tenancy Agreement dated 30 September 2022 within the meaning of the Act.
13. The Applicant intends to sell the let property.
14. The Applicant is the owner of the property and is entitled to sell it.

15. The Applicant wishes to sell the property for a number of reasons, including the occurrence of incidents at the Property in 2025 involving the police and due to the Respondent being in rent arrears since August 2025. The Rent arrears from August 2025 to September 2026 are £5 530.00 as shown in the rent statement produced.
16. The Respondent has failed to engage with the Applicant or their letting agent in any way since at least August 2025.
17. The Applicant has competently served a notice to leave on the Respondent dated 28 August 2025 under ground 1 of Schedule 3 of the Act.
18. The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003.
19. On 20 April 2026, K Property, 18-20 Baronhill, Cumbernauld, Cumbernauld Village, G67 2SB confirmed by letter that the Applicant has instructed them to take steps to market the property as soon as vacant possession is obtained.
20. The Respondent was served with a copy of this Application by Sheriff Officer on 24 August 2026 and received intimation of the date of the Case Management Discussion.
21. The Respondent currently lives in the Property on his own.
22. The Applicant is unaware of the Respondent's current circumstances given his failure to engage with them or their letting agent.

Reasons for Decision

23. In terms of section 51(1) of the Act, the Tribunal is to issue an eviction order against the tenant of a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies. The Applicant relies on ground 1 of Schedule 3 of the Act in the present case.
24. Ground 1 of Schedule 3 provides:

"1 Landlord intends to sell

- (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.”

25. Sub-paragraph 2 (c) of ground 1 was added by section 43 (3)(a)(iii) of the Coronavirus (Recovery and Reform) (Scotland) 2022. As originally enacted, ground 1 was mandatory so if the Landlord established that they were entitled to sell the property and intended to sell it, the Tribunal was required to issue an eviction order.

26. The amendment added by the 2022 Act has the effect of introducing an element of discretion into ground 1. Establishing the facts in sub paragraphs 2 (a) and (b) is sufficient to make it *prima facie* reasonable to evict. It is then for the tenant to put circumstances to the Tribunal to show otherwise (see *Manson v Turner 2023 UT 328 @ para 7*). Evidence of intention can, by way of example, include a letter of engagement from a solicitor or estate agent concerning the sale of the let property (as set out in ground 1 (3)).

27. Having made the above findings in fact, the Tribunal considered that the Applicant has established that they intend to sell the let property and that they are entitled to do so in terms of ground 1(1) (2) (a) and (b) of Schedule 3 of the Act.

28. The Tribunal considered whether it is reasonable to issue an eviction order in terms of ground 1 (2) (c). In doing so the Tribunal must 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. This is confirmed by one of the leading English cases, *Cumming v Danson [1942] 2 All ER 653 at 655* (which is referred to in the Upper Tribunal case *Manson v Turner 2023 UT 328*) in which Lord Green MR said in an often-quoted passage:

“In 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 common-sense 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.”

29. The Tribunal took into account the reasons why the Landlord wishes to sell the Property. The Tribunal gave weight to the fact that the Applicant came to the decision to sell after a second incident occurred at the Property which involved the police attending. The Tribunal gave weight to the fact that the Respondent has failed to engage with the Applicant at all in respect of the rent arrears both before and after the incident in August 2025. The Respondent has failed to pay any rent since August 2025 and the arrears of rent are now substantial. The Respondent lives on his own in the Property. The Tribunal noted that the Respondent has not lodged a written response nor did he attend the CMD although he had an opportunity to do so. The Tribunal considered that in light of the information provided by the Applicant and the lack of engagement by the Respondent, it was reasonable to grant the eviction order.
30. In addition to determining that the Applicant has satisfied the requirements of Ground 1 (1) and (2) of Schedule 3, the Tribunal considers that it is reasonable to make an eviction order in terms of Ground 1 (3) for the reasons stated above.
31. The Tribunal decided to exercise the power within rule 17 of the procedure rules and determined that a final order should be made at the CMD.

Decision

The Tribunal makes an order for eviction of the Respondent 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.

Fiona Stephen

Fiona Stephen
Legal Member/Chair

14 October 2026
Date