



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

Chamber Ref: FTS/HPC/EV/26/1240

Re: Property at 15 Stenhouse Gardens, Edinburgh, EH11 3JL (“the Property”)

Parties:

DMF PROPERTY LTD, 11 Glenlockhart Bank, Edinburgh, EH14 1BL (“the Applicant”)

Sorin-Feri Muntean, Nicoleta Muntean, 15 Stenhouse Gardens, Edinburgh, EH11 3JL (“the Respondent”)

Tribunal Members:

Robert MacDonald (Legal Member) and Sandra Brydon (Ordinary Member)

Decision in absence of the Respondents

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. In terms of section 54(1) of the 2016 Act, the Private Residential Tenancy between the parties will end on 15th October 2026.

Background

1. The Applicant made an application dated 18th March 2026 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 (Procedure) Regulations 2017 (“The Rules”). The Applicant relied upon Ground 1 of Schedule 3 of the Act as the ground for eviction, namely that the Respondent intended to sell the property.
2. On 21st April 2026 the application was accepted by the Tribunal and referred for determination by the Tribunal.

3. A Case Management Discussion (“CMD”) was scheduled for 15th September 2026. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules by letter dated 6th August 2026. Intimation was made on the Respondents by sheriff officers who served this on them on 10th August 2026 at the property by handing the paperwork to the First Respondent personally.

Case Management Discussion

4. The CMD took place on 15th September 2026 at 10:00 AM. It was held concurrently with the payment application CV/26/1242. Ms Nicola Brechany, solicitor, TC Young and Co appeared on behalf of the Applicant. There was no appearance on or on behalf of the Respondents. The Tribunal was satisfied that the Respondents had received notice of the CMD. The hearing did not start until 10:15, and the Respondents had ample time dial in to the CMD but did not do so. The Respondents had not lodged any written submissions with the Tribunal. The Tribunal took the view in all the circumstances it was fair and appropriate to continue with the CMD in their absence.
5. At the CMD the Tribunal had documentation before it including: -
 - a. Application form E;
 - b. A copy of the Private Residential Tenancy Agreement between the parties dated 30th December 2022;
 - c. A copy of a Notice to Leave and proof of delivery of the said notice on the Respondents by Sheriff Officer on 17th December 2025;
 - d. A copy Notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 and evidence of service on Edinburgh Council dated 18th March 2026.
 - e. A letter from VMH Solicitors Ltd dated 13th March 2026 confirming they had instructions to sell the property on vacant possession being confirmed by their client.
 - f. A rent statement ending 1st August 2026;

Applicants submissions

6. The Tribunal heard submissions from Ms. Brechany on behalf of the Applicant.
7. Ms. Brechany advised the Tribunal that a Notice to Leave had been served on the Respondents by Sheriff officers on 17 December 2025. The Notice to Leave became live on 12 March 2026. The Applicant intended to sell the property if they recovered possession. They had instructed solicitors to deal with the sale

of the property, and a formal letter of engagement was lodged. The Respondents were believed to remain in possession of the property. Ms. Brechany submitted that there was sufficient evidence to allow the Tribunal to reach the conclusion that Ground 1 had been made out by the Applicant.

8. On the question of reasonableness Miss Brechany pointed to the extent of the rent arrears and the fact that there had been no payment made to the rent account in almost a year. There were currently rent arrears of £10,400. The property was subject to a mortgage and the company owner, Mr. Fortune, required to make the mortgage payments. Extensive work had been carried out by the Applicant on the property in 2026, including external and internal work costing £7300. The Applicant was in the process of selling a number of properties. There had been pre-action protocol correspondence in relation to the rent matter with the Respondents. They had failed to engage or provide any explanation for the rent arrears. The Applicants letting agent spoke with the First Respondent in March 2026. The Respondent at that stage had indicated that there might be alternative accommodation available to them from June or July 2026. Ms. Brechany advised that the First Respondent was 44 years of age and the Second Respondent was 37 years of age. They had a daughter of 15 years of age, and it was understood that their 21 year old son had recently moved into the two-bedroomed property. Their occupations and the household income were unknown, but they were not in receipt of benefits. Ms. Brechany submitted that in all the circumstances It was reasonable that an order for repossession be granted.
9. The Tribunal adjourned the CMD to deliberate outwith the presence of the Applicant's agent. The Tribunal were satisfied that there was sufficient information available to them to make a decision in this case. After a brief adjournment, the Tribunal resumed the CMD and confirmed the outcome.

Findings in Fact and Law

10. The Applicant is the owner of the property in terms of land certificate MID116125.
11. The Applicant is the landlord, and the Respondent is the tenant of the property in terms of a Private Residential Tenancy Agreement which commenced on 30th December 2022.
12. The Applicant's agent sent a Notice to Leave as defined by Section 62 of the 2016 Act dated 12th December 2025 to the Respondents and this was served by Sheriff Officer on 17th December 2025.

13. In terms of the notice, which relied on Ground 1, the Respondent was advised that an application might be submitted to the Tribunal after 12th March 2026.
14. A notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 was sent on behalf of the Applicant to Edinburgh Council on 18th March 2026.
15. The Applicant had engaged a firm of solicitors to deal with the marketing of the property once vacant possession was obtained.
16. The Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondents ceasing to occupy it.
17. The Applicant is entitled to sell the property.
18. As at the date the application was submitted to the Tribunal, the Respondents were in arrears of rent of £5000. As at the date of the CMD, the Respondents were in arrears of rent of £10400.
19. The Tribunal was satisfied that the provisions of Paragraph 1 of Schedule 3 of the 2016 Act had been met in this case.
20. Having regard to the factors relevant to reasonableness, the Tribunal concluded that it was reasonable for an order for eviction to be granted.
21. There was no information before the Tribunal that led the Tribunal to consider that the respondents should be given an extended of time before the order could be enforced.

Reasons for Decision

22. The Tribunal noted that there was evidence that the Applicant wished to sell the property and that solicitors had been engaged to market it.
23. The Applicant was the owner of the property and was entitled to sell it.
24. Mr Fortune had been left with a mortgage commitment on the property which he needed to pay. There were very significant rent arrears.

25. The Tribunal considered the Respondent's circumstances insofar as they were known to the Tribunal.

26. The Tribunal considered whether it was reasonable to make an Eviction Order on account of the information available to it, which required the Tribunal to identify the factors relevant to issues of reasonableness and to determine how much weight should be applied to them.

27. The Tribunal attached considerable weight to the fact the Respondents had not engaged with the Tribunal, and they had not opposed the Application.

28. The decision of the Tribunal was unanimous.

Decision

29. The Tribunal grants an order for possession of 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.

Robert MacDonald

15.9.2026

Legal Member/Chair

Date