



**Decision and 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/23/3781

Re: Property at 51 Ardlair Terrace, Dyce, Aberdeen, AB21 7LA (“the Property”)

Parties:

**Mr Zulfiqar Ahmad, 1st Floor Flat, 77 Greenburn Drive, Aberdeen, AB21 9HB
 (“the Applicant”)**

**Ms Emma Karrison, 51 Ardlair Terrace, Dyce, Aberdeen, AB21 7LA (“the
Respondent”)**

Tribunal Members:

Valerie Bremner (Legal Member) and Andrew Murray (Ordinary Member)

Decision

The Tribunal determined that an eviction order be granted in favour of the Applicant and against the Respondent in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Applicant is entitled to sell the let property, intends to sell it for market value, or at least put it up for sale within three months of the tenant ceasing to occupy it and the Tribunal was satisfied on account of those facts that it is reasonable to grant an order but suspends the execution of the order until 21st January 2027.

The Decision of the Tribunal was unanimous.

Background

1. This application for an eviction order was first lodged with the Tribunal on 23rd October 2023 and accepted by the Tribunal on 20th May 2024. A case management discussion was fixed for 21st January 2025. As the eviction was being opposed a hearing was fixed for 28th July 2025 at 10am and this took place at Aberdeen Sheriff Court.

2.The Applicant did not attend the hearing but was represented by Ms Bell, Associate Portfolio Manager of DJ Alexander Sales and Letting Agents. The Respondent attended with a supporter and represented herself.

3.The Applicant was seeking to sell the let property. The Tribunal had sight of the Application, the tenancy agreement, a notice to leave, guidance notes on the notice to leave, a notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003, an email sending the notice to Aberdeen City Council dated 26th October 2023, and an email sending the notice to leave to the Respondent on 27th July 2023, along with an authorisation from the initial joint owner of the property authorising the application to proceed in the name of the Applicant only. The Applicant's representative had submitted further information ahead of the hearing in the form of a letter indicating that the let property was now owned by the Applicant and his current wife as well as land registration documents which confirmed the ownership change. In addition, she had submitted a letter setting out the addresses of other properties owned by the Applicant together with mortgage costs and the rent paid on those properties which are currently tenanted. In addition, the Tribunal had sight of a letter from a firm of solicitors dated 1st May 2024 confirming that they had been instructed to market the property for sale.

Hearing

4. The Tribunal noted that a direction of the Tribunal dated 21st January 2025 which had been issued after a case management discussion on that date had not been complied with in that the Tribunal had not received some of the documentation requested of the Applicant in relation to his divorce, and what he said was his requirement to sell the property in terms of the divorce. Ms Bell indicated that she had asked the landlord to provide her with financial information, but he had seemed reluctant to do so. This rented property had been jointly owned by the Applicant and his former wife, and the Applicant's position was that this property had to be sold to meet the requirements of his divorce.

5.The Tribunal members heard from the Respondent what her current position was in relation to the tenancy. She said that she was opposing the eviction for social and private reasons.

6. The Respondent described the property as rundown and said that landlord was not prepared to spend money on it. She said that the flooring and carpets were worn and the walls needed painted and doors needed replaced. She said there had been issues with the boiler and there were only two radiators working in the property. She had gone seven weeks without gas during the tenancy. She further described a dispute with the landlord over the lights of the property which she said flickered, and she said it took some time for that repair to be carried out. She said the dishwasher had leaked and the carpet had been ruined. She said she wanted to go and live somewhere else if she could find somewhere and described that she would move the next day if she could. She talked of continuous problems, leaks in the roof, issues with the ceiling and plasterboard which she said she had reported to the landlord which she said was not wear and tear.

7.Ms Karrison explained that she had lived at another property in Dyce for six months before she had moved into this property some years before. She lives with five

children, two of whom are over 16 and the rest are at secondary school. Those at school attended Dyce and Bucksburn academies. She said that her 14 year old has autism. She didn't have a letter to confirm the condition because her doctor doesn't provide one and she said that she had a letter regarding disability allowance, but this was over 2 years old. She said she wanted to stay in the area for schooling reasons and had looked at several areas nearby, but her son was settled at the school where he was currently enrolled. Her 14 year old son and her eldest son aged 20 shared a bedroom at the property. She said that she had been bidding for properties and had bid for 4 properties but had been offered only one in Middlefield. This was not suitable for her needs as she cannot manage stairs and needs a ground floor property. She advised that her sister supports her as she has cerebral palsy and a heart condition. She said she had looked at private rented properties and she needed 4 or more bedrooms for her family. There were few properties in her price range. She paid the majority of the rent at the let property with support from housing benefit. She received universal credit and Disability Living Allowance.

8.Ms Bell said that she did not dispute any of the medical conditions set out by the Respondent. The landlord had concerns about the condition and maintenance of the property. There had been an inspection some 6 weeks before the hearing and the condition appeared slightly better than at the previous inspection.

9.The Tribunal members indicated that they required the information which the Applicant had been asked for and had not provided previously regarding his divorce. It was agreed that a further hearing would not be fixed meantime, and the Tribunal would consider making a decision on the papers without a further hearing if further information was provided. The Tribunal indicated that a Direction would be issued requiring this information and giving time to lodge further information and two weeks for parties to respond to any further information given.

10.There was a delay in the issue of the papers to parties after the hearing in July 2025 and these were issued in April 2026 along with a Direction to parties requiring the Applicant to lodge further information regarding his divorce and his assertion that he required to sell the property in terms of his divorce, confirmation as to whether the Applicant can pay any financial sums required to be paid to his former wife by selling another of his let properties other than the property referred to in this application, and other other information the Application wished to give the Tribunal. The Respondent was required to update the Tribunal on her search for another property and to give any other information she wished to give the Tribunal.

11.The Applicant's representative lodged on 23rd April 2026 a copy of the Applicant's divorce decree, minutes of agreement and Interlocutor minutes, joint minutes regarding the divorce, financial details and confirmation in an agreement of the term to sell the property, details of other tenanted properties owned by the Applicant which were said to show that he is not equity rich to be able to sell other assets to clear the debts, a credit report detailing mortgage details, and a letter from the selling agent for the property dated 1st May 2024. Along with these documents the Applicant also indicated that he was content for the Application to be dealt with without a further hearing being fixed.

12.The Respondent did not submit any additional information after the hearing in July 2025 but did advise the Tribunal by email of 20th August 2026 that she had no objection to the matter being dealt with without another hearing.

13.The further information lodged on behalf of the Applicant in April 2026 related to the terms of the divorce of the Applicant from his ex-wife. The Tribunal had sight of the extract degree of divorce dated 6th January 2023.In this extract it could be seen that the divorce was granted and amongst other orders , the Court of Session had ordered that the let property which at that time was owned by the Applicant and his former wife jointly be sold and free proceeds from the sale were to be paid to a lender in partial satisfaction of a standard security outstanding over the matrimonial home in Aberdeen, ownership of which was to be transferred to the Applicant's former wife as part of the divorce settlement. The let property was to be sold as soon as was reasonably practicable and these arrangements were in part to satisfy a capital sum which the court awarded to the Applicant's former wife in terms of the divorce.

Findings in Fact

14.The parties entered into a private residential tenancy agreement at the property with effect from 10th July 2020.

15.The Respondent lives at the property with her 5 children, two of whom are over 16 and the other three are at secondary school.

16.The Respondent has a number of health conditions and requires a ground floor property.

17.The Respondent opposes an eviction order being granted although does wish to live elsewhere with her family if she can find somewhere suitable.

18.The Respondent has tried to bid for other properties, but these were not suitable and she wishes to remain in the same area for schooling for some of her children.

19.The Respondent receives universal credit and disability living allowance and pays the rent at the property with support from housing benefit.

20.The Respondent requires to rent a four bedroom property for her and her family and there are not many properties in the area where she wishes to stay within her rental price range.

21.The Respondent's 14 year old son has autism and is settled at his current school.

22.The Respondent has looked for other properties but there are few which meet her family's needs in the area.

23.A notice to leave in proper form giving appropriate notice and setting out that the landlord intended to sell the let property was intimated to the Respondent on 27th July 2023 indicating that an application to the Tribunal for an eviction order would not be made before 22nd October 2023

24. A Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 was sent to the local authority in relation to this application on 26th October 2023.

25. The let property was originally owned by the Applicant and his former wife but is now owned jointly by him and his current wife.

26. The Applicant has 6 rental properties which are all let out.

27. The Applicant is divorced from his former wife and in terms of the extract decree dated 6th January 2023, the Court of Session ordered that the let property is to be sold as soon as is reasonably practicable to allow the Applicant to pay part of a capital sum owed to his former wife in terms of the divorce decree.

28. The Applicant and his now wife who own the let property wish to sell it as soon as possible, are entitled to sell it and wish to sell it for market value or at least put it on the market for sale within three months of the tenant ceasing to occupy it.

29. The Applicant instructed solicitors to market the property for sale as far back as May 2024.

Reasons

30. The Respondent took no issue with the documents served in this application.

31. In determining whether it is reasonable to grant an eviction order the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.

32. The tribunal now has a duty in such cases to 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. In determining whether it is reasonable to grant the order the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties. This is confirmed by one of the leading English cases, *Cumming V Danson*, [1942] All ER 653 in which Lord Greene MR said :-

“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 fit to the various factors in the situation. Some factors will 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”.

33. In this application the Respondent has opposed the request for an eviction order but has looked for other properties and appears willing to leave the property if she can find another affordable and suitable property to accommodate both her and her family within the same area as the let property. She does not wish to move to another area

as her 14 year old son who is autistic is settled in his school and her other school age children attend school in the area. There are not many properties within this area which are affordable to the Respondent to rent and as such it may be difficult for her to find a suitable alternative property to meet her family's needs.

34. While the Applicant has a number of rental properties which are tenanted in terms of an agreement which led to his divorce decree, the Court of Session granted an order requiring him to sell the let property to satisfy in part a standard security on the matrimonial home owned by the Applicant and his former wife so that he could pay his former wife a capital sum required as part of the divorce decree. As a result of these arrangements the Applicant sought to sell the let property as early as May 2024.

35. The tribunal gave a good deal of weight to the Respondent's circumstances and the fact that she and her family require a particular size of property which may well make it difficult for her to find another rental property. They also wish to stay in the area for the children's schooling which is understandable. The tribunal also gave considerable weight to the Applicant's circumstances and noted that as far back as 2023 as part of his divorce settlement from his former wife, the Court of Session ordered that the let property be sold as soon as was reasonably practicable to allowed him to meet, in part, his financial obligations in terms of the divorce. Whilst he has other let properties it was this property which was ordered to be sold and the tribunal considered on balance that the Applicant is entitled to sell the property with vacant possession to meet his financial obligations in this way as set out in a court order and that these circumstances are determinative in relation to the Application.

36. Whilst the Tribunal determined that the eviction order be granted, given that the Respondent will encounter difficulty in finding another suitable property for her family the Tribunal considered it appropriate to suspend the execution of the order until 21st January 2027 to allow the Respondent to find alternative accommodation.

Decision

The Tribunal determined that an eviction order be granted in favour of the Applicant and against the Respondent in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Applicant is entitled to sell the let property, intends to sell it for market value, or at least put it up for sale within three months of the tenant ceasing to occupy it and the Tribunal was satisfied on account of those facts that it is reasonable to grant an order but suspends the execution of the order until 21st January 2027.

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.

_____ **Date 24.9.26**

Andrew Murray

Ordinary Member

(in the absence of the legal chairperson Mrs Bremner)

This is a decision issued in terms of Rule 26(9) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended ("the Rules"). This decision, for the avoidance of doubt, is a unanimous decision and reflects the decision, findings and reasons of the Legal Chairperson Mrs Bremner and the Ordinary Member Mr Andrew Murray, which were reached before the absence of Mrs Bremner. This written decision and statement of reasons was drafted by the Legal Chairperson Mrs Bremner and approved by the Ordinary Member. In terms of Rule 26 (3), a decision of the First-tier Tribunal must be signed by the chairing member (the Legal Member). In terms of Rule 26 (9) the chairing member is now absent as she has resigned. In terms of Rule 26 (9), the chairing member's functions under Rule 26 may be carried out by another member of the First-tier Tribunal conducting the hearing. The Ordinary Member of the Tribunal has signed this decision and statement of reasons.