

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/26/0410

Re: Property at Property: 57 McGhee Street, Clydebank, G81 2BL (“the Property”)

Parties:

Mrs Philomena Lennon 0/1 41 Miller Street Clydebank G81 1U (“the Applicant”)

Ms Charlene Calder, 57 McGhee Street, Clydebank, G81 2BL (“the Respondent”)

Tribunal Members:

Robert MacDonald (Legal Member) and Elaine Munroe (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. In terms of section 54(1) of the 2016 Act, the Private Residential Tenancy between the parties will end on 14th November 2026.

Background

1. This is an application dated 19th January 2026 for an Eviction Order under Section 51 of the 2016 Act Rule 109 of the First-Tier Tribunal for Scotland Housing and Property Chamber Procedure (Regulations) 2017. (“The Rules”). The Applicant relies upon Ground 1 of Schedule 3 to the 2016 Act as a ground for eviction, namely that the Applicant is entitled to sell the let property and 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.
2. The application was accepted by the Tribunal as valid on 19th May 2026 and referred to a Tribunal for determination. A Case Management Discussion was set to take place on 15th October 2026 by teleconference. The Tribunal gave notice of the Case Management Discussion to the parties in accordance with Rule 17(2) of the Rules. The Notice was served on the Respondent by Sheriff Officer on 18th August 2026.

3. The Tribunal invited the Respondent to submit any written representations in response to the application to the Tribunal by 5th September 2026.

Case Management Discussion

4. The Case Management Discussion took place on 15th October 2026. The Applicant, her daughter, Collette Gracie, the Applicant's representative, Paula Taylor from TM Letting Limited and the Respondent, Charlene Calder, were all personally present.
5. The Tribunal had before it the following documents:-
 - a. Form E Application Form;
 - b. Land Certificate confirming the property was owned by the Applicant;
 - c. Evidence that the Applicant was registered as a landlord;
 - d. Copy of a Private Residential Tenancy Agreement entered into between the parties;
 - e. A copy of a Notice to Leave and proof of delivery of the Notice on the Respondent by email dated 17th October 2025;
 - f. Copy Section 11 Notice in terms of the Homelessness etc. (Scotland) Act 2003 and proof of delivery to West Dunbarton Council on 19th January 2026;
 - g. Confirmation from TM Residential Ltd that they would deal with marketing the property.
6. The Tribunal explained to the parties the purpose of a Case Management Discussion and that it was open to the Tribunal to make a final decision at a Case Management Discussion if the facts were sufficiently clear to the Tribunal.
7. The Tribunal heard submissions from Miss Taylor on behalf of the Applicant, supplemented by further information from Mrs Gracie. The Tribunal thereafter heard submissions from the Respondent.
8. Miss Taylor explained that the Applicant was almost 94 years of age. She wanted to recover possession of the property to enable her to market it and sell it. She wanted to sell the house because of her age. She was trying to put her affairs in order. TM Residential Ltd was able to deal with the estate agency, and the property would be placed on the market for sale by them once the Applicant recovered possession. Mrs Gracie confirmed that she had instructed the application on behalf of her mother, and in that regard was acting under a Power of Attorney which authorised her to do so.
9. Ms Calder explained to the Tribunal that she did not oppose the application to evict her. She accepted that the Applicant was entitled to recover possession of the property to allow her to sell. The Respondent had lived in the property since 2018. It has three bedrooms. She had two children aged 17 and 10. She had been in discussions with the Local Authority. They had advised her not to simply leave the property as she would be making herself homeless. She understood that once an Eviction Order was granted, a homelessness case worker would be assigned, and they would try and get housing organised for her. She realised that she might be placed into temporary accommodation to begin with until something more permanent could be sourced. She did not seek

an extension of the 30-day period prior to eviction, nor did she consider that this would benefit her.

10. The Tribunal discussed with the Applicants representative the notice period. She explained that the Notice had been prepared using the Scottish Government website. The Notice period had been calculated on the basis that it was being served by email. She accepted that the 84-day period would start forty-eight hours after it was sent regardless of when it was received, and that the period of notice given to the Respondent was accordingly one day short. Her position was that given the Respondent wasn't opposing the application, and that there was a lengthy period of notice in any event, the one-day deficit in the period of notice did not prejudice the Respondent.
11. In relation to that matter, Ms Calder confirmed that she was not taking issue with the fact that the notice had been a day short.
12. The Tribunal adjourned the Case Management Discussion briefly to deliberate outwith the presence of the parties.
13. The Tribunal considered that there were sufficient matters of undisputed fact to enable it to determine what the outcome ought to be.
14. After a brief adjournment the Tribunal resumed the Case Management Discussion and explained to the parties that the Tribunal would be in a position to issue a decision in the case once a copy of the Power of Attorney by the Applicant authorising her daughter to deal with matters on her behalf was produced. That Power of Attorney was subsequently emailed into the Tribunal, and the Tribunal thereafter was able to confirm the outcome.

Findings in Fact and Law

15. The Applicant is the owner of the property in terms of a Land Certificate registered in the Land Register of Scotland under title number DMB12703.
16. The Applicant is the landlord, and the Respondent is the tenant of the property in terms of a Private Residential Tenancy Agreement entered into between the parties which commenced on 7th September 2018.
17. The terms of the Private Residential Tenancy Agreement between the parties provided that service of a Notice to Leave could be made by email.
18. The Applicant's agent sent a Notice to Leave as defined by Section 62 of the 2016 Act to the Respondent by email on 17th December 2025. The Notice provides that an application could be made to the Tribunal for eviction after 10th January 2026.
19. The Notice to Leave was defective in that it did not take into account the terms of Section 62(5) which provides that it is to be assumed that the tenant will receive the Notice to Leave forty-eight hours after it is sent. The Tribunal however were satisfied that the error was not so fundamental that the Notice should be regarded as invalid.
20. The Applicant's agents applied to the Tribunal on 19th January 2026.
21. A Notice in terms of Section 11 of the Homelessness etc. (Scotland) Act was sent by the Applicant's agent to West Dunbartonshire Council by email on 19th January 2026.

22. The Applicant is almost 94 years of age. She wishes to sell the property as she wishes to put her affairs in order.
23. The Applicant has asked TM Residential Limited to act as estate agents for the sale of the property.
24. The Applicant intends to sell the property for market value or at least put it up for sale within three months of the Respondent ceasing to occupy it.
25. The Respondent does not oppose the order sought by the Applicant.
26. The Respondent lives in the three-bedroom property with two children aged 10 and 17.
27. The Respondent has made an application to West Dunbartonshire Council for housing and will be entitled to emergency housing.
28. It is reasonable in all the circumstances to make an Eviction Order.

Reasons for Decision

29. The Tribunal was satisfied having considered all the documentary evidence and the submissions from the parties that it has sufficient information before it to make the relevant findings in fact and to enable to reach a decision on the application. The Tribunal accepted the documentary evidence and the submissions from the Applicant and the Respondent.
30. The Tribunal was satisfied that the Applicant had complied with the statutory requirements in relation to service of a Notice to Leave on the Respondent. The Tribunal took the view that the minor error in calculating the first date on which the Applicant could apply to the Tribunal did not affect the effect of the notice served. The error was not material, and the Respondent did not take issue with the period of notice. In any event the applicant did not immediately apply to the Tribunal on expiry of the notice period.
31. The tribunal was satisfied that the Applicants' representative had given notice to the local authority in terms of section 11 of the Homelessness etc (Scotland) Act 2003.
32. The Tribunal was satisfied that the Applicant wanted to put her affairs in order, and that she intended to place the property on the market for sale within three months.
33. The Tribunal was satisfied the Applicant was entitled to sell the property.
34. The Tribunal considered the Respondent's circumstances. She didn't oppose the order sought. She was on the housing list to be rehoused and understood that West Dunbartonshire Council would make emergency housing available to her if no permanent accommodation was immediately available.
35. The Respondent did not think that an extension of the period prior to eviction would assist.
36. The Tribunal considered whether it was reasonable to make an Eviction Order on account of the information available to it. The Tribunal required to identify the factors relevant to reasonableness and determine how much weight should be applied to them. The Tribunal attached considerable weight to the fact that the Applicant was now almost 94 years of age and wanted to put her affairs in order. The Tribunal also applied considerable weight to the fact that the Respondent did not oppose the order sought.

37. Having considered the factors relevant to reasonableness, the Tribunal concluded that it was reasonable for an order for eviction to be granted.
38. The Tribunal was satisfied that the provisions of paragraph 1 of Schedule 3 to the 2016 Act had been met in this case.
39. The decision of the Tribunal was unanimous.

Decision

40. The Tribunal grants an order for eviction of the Respondent.

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

15.10. 2026

Legal Member/Chair

Date