



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/26/1202

Re: Property at 94 Miller Street, Larkhall, ML9 2HN (“the Property”)

Parties:

Mrs Ann Dowie, 41 Kirk Street, Motherwell, ML1 1EE (“the Applicant”)

Mrs Linda Watkins and Mr Alan Watkins, 94 Miller Street, Larkhall, ML9 2HN (“the Respondents”)

Tribunal Members:

Craig Chisholm (Legal Member) and Eileen Shand (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the Property should be granted.

Background

1. By application dated 16 March 2026, the Applicant sought an order in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”).
2. On 29 April 2026, the application was accepted by the Tribunal and referred for determination.
3. A case management discussion (CMD) was set to take place on 18 September 2026, and appropriate intimation of that hearing was given to all parties.

The Case Management Discussion

4. The CMD took place on 18 September 2026 via telephone conference call. The Applicant was represented by Ms Stewart of igloo Estate Agents. The Respondents were represented by their daughter, Leanne Watkins.
5. The Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.
6. The Tribunal asked various questions of the parties with regard to the application.
7. The Applicant's representative confirmed that the Applicant wished the Tribunal to make an order for eviction.
8. The Respondent's representative confirmed there was no opposition to an order being granted.

Findings in Fact

9. The Applicant is the registered owner of the Property.
10. The Applicant and the Respondents are respectively the landlord and tenants under a Private Residential Tenancy Agreement for the Property, entered into in terms of the 2016 Act and commencing on 12 May 2022.
11. On 3 December 2025, the Applicant served upon the Respondent a Notice to Leave (NTL) as required under the 2016 Act. Service was effected by personal delivery via sheriff officer service. The NTL informed the Respondent that the Applicant wished to seek recovery of possession under ground 4 contained within Schedule 3 of the 2016 Act, namely that the Applicant intends to live in the Property.
12. The NTL was correctly drafted and gave appropriate periods of notice as required by law.
13. The initial agreed monthly rental was £595 per month.
14. The Respondents were elderly, being 70 and 72 respectively. Both Respondents were in generally poor health. The Respondents' representative submitted that the Respondents could not afford to obtain alternative

accommodation on the open market due to rental increases. The Respondents had engaged with the local authority and were advised that the local authority could not assist with accommodation until an eviction order was granted. For that reason, they did not oppose the granting of the eviction order.

15. The Applicant's representative submitted that the Applicant does not have a permanent address in the United Kingdom and stays abroad for a large portion of the year. When the Applicant is in the United Kingdom, she stays with friends or family, usually at her mother-in-law's home in Motherwell. The Applicant's representative submitted that circumstances had changed because the Applicant's mother-in-law's health had deteriorated and the Applicant was required to care for her mother-in-law more frequently. The Applicant therefore required to move into the Property to facilitate that care. The Applicant's representative submitted that the Applicant's current living arrangements when she is in the United Kingdom were not suitable for that purpose.

16. The basis for the order for possession on ground 4 was thus established.

Reasons for Decision

17. The Tribunal was satisfied it could make relevant findings in fact in order to reach a decision following the CMD, and that to do so would not be contrary to the interests of the parties in this case.

18. The order for possession sought by the Applicant was based on the ground specified in the 2016 Act and was properly narrated in the NTL served on the Respondent. The Tribunal was satisfied that the NTL had been served in accordance with the terms of the 2016 Act and that the Applicant was entitled to seek recovery of possession on that ground.

19. The Tribunal accepted the Applicant's evidence regarding their intention to live in the Property. Their current living arrangements were not suitable given their change in circumstances and her mother-in-law's deterioration in health.

20. The Tribunal was satisfied that the Applicant intended to occupy the Property as their only or principal home for at least 3 months, and that it was reasonable to issue an eviction order on account of those facts.

21. In any event, the granting of an eviction order was not disputed by the Respondents. The granting of an eviction order would assist them in obtaining local authority housing.

22. Ground 4 was accordingly established.

Decision

23. The Tribunal 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. This is confirmed by one of the leading English cases, *Cumming v Danson* [1942] 2 All ER 653 at 655, where 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 commonsense way as a man of the world, and come to his conclusions 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.”

24. 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.

25. In this case, the Tribunal finds that it is reasonable to grant the order. The balance of reasonableness weighs in favour of the Applicant.

Right of Appeal

In terms of section 46 of the Tribunals (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.

Craig Chisholm

18/09/26

Legal Member/Chair

Date