



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/26/0998

Re: Property at 698 Ferry Road, Edinburgh, EH4 4AQ (“the Property”)

Parties:

Mr Thomas Clark, 86 Gilmerton Dykes Drive, Edinburgh, EH17 8LG (“the Applicant”)

Ms Pauline Smyth, 698 Ferry Road, Edinburgh, EH4 4AQ (“the Respondent”)

Tribunal Members:

Hilary Macandrew (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Eviction Order be granted.

1) Background

- 1.1 By Application dated 2nd March 2026 the Applicant sought an order Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (‘The Act’).
- 1.2 The application to the Tribunal was made by Form E and was accepted for determination by the Tribunal on 12th May 2026.
- 1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondent by sheriff officers on 11th August 2026.
- 1.4 The Applicant lodged the following documents in advance of the case management discussion (CMD):-
 - Tenancy agreement

- Notice to Leave
- Section 11 Notice

1.5 A Case Management Discussion was set to take place on 6th October 2026. Intimation was given to the Respondent by Sheriff Officers on 11th August 2026.

2) The Case Management Discussion ('CMD')

2.1 The CMD took place by tele conference on 6th October. Mr Haig of Home Letting Scotland represented the Applicant. Ms Bennett of the Community Help and Advice Initiative, Edinburgh represented the Respondent. Respondent took part..

2.2 The Applicant sought the Eviction Order based on Ground 1 of Schedule 3 of the Act. In advance of the CMD the Applicant had lodged the following documents ;

- Private Residential Tenancy Agreement
- Notice to leave and proof of Service
- Section 11 Notice and proof of Service
- Correspondence from a Selling Agent instructed by the Applicant
- Response to the Respondent's submission seeking postponement of the Eviction Order.

2.3 In advance of the CMD the Respondent had lodged the following document

- A Written Submission stating that she did not oppose the Eviction Grounds but that she sought postponement of the Eviction Order

2.4 The Private Tenancy Agreement started on 1st May 2025. This replaced a Short Assured Tenancy which started 9 years previously. The Respondent has lived in the property for 10 years. The Applicant has not increased the rent from the initial rent of £700 per month during the entire period of the Respondent's occupation of the property. The Respondent has looked after the property and paid the rent timeously. The Applicant is retiring and seeks to sell the property to fund retirement. He has engaged a selling agent. He is a landlord for this property only and does not have a portfolio of other properties. He has secured borrowing to repay. The property is a four bedroomed property. It provides accommodation in excess of the requirement of the Respondent and her adult son who are the only occupiers. Mr Haig stated that the Housing Let and Sales company he works for do not have any properties for let in the immediate area at a level of rent equivalent to the current rent being paid for the property. A private rent in the locality would be around £1200 to £1300 per month for a two bedroomed property. The Applicant does not see any justification for a postponement of an Eviction Order. The Respondent has had significant time since the Notice to Leave was issued on 1st December 2025 to source accommodation for herself and her adult son.

2.5 Ms Bennett confirmed that the Respondent does not dispute the grounds. She sought a postponement of the Eviction Order to enable the Respondent to find alternative accommodation for herself and her adult son who has been diagnosed with Autistic Spectrum Disorder. She acknowledged that the Respondent had approached Edinburgh City Council for housing. They have not carried out an assessment and will not do so until an Eviction Order is granted. The Respondent requires two bedroomed accommodation. She is working full time and receives some Universal Credit. Her son is not in receipt of benefits but enquiries are being made in this regard. The private housing rents in the immediate area are out with her budget.

2.6 Rule 17 of the First-Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 provides that the Tribunal may do anything at a CMB which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a hearing.

3) Findings in Fact and Law

3.1 The Private Rental Tenancy Agreement commenced on 1st May 2025. The Respondent had previously been a tenant of the property under a Short Assured tenancy for 9 years.

3.2 On 1st December 2025 a Notice to Leave was served on the Respondent bringing the tenancy to an end on 27th February 2026.

3.3 The Notices was correctly drafted and provided sufficient Notice.

3.4 The Applicant is seeking eviction to enable him to sell the property. The Respondent does not dispute the Ground for eviction.

3.5 The basis for the Order for possession was accordingly established.

4) Issue For The Tribunal

4.1 The issue for the Tribunal is to determine whether or not it is reasonable to grant the Order and if granting the Order, whether the Respondent's request for a postponement of enforcement should be allowed

4.2 The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah* 1943 SC 245 whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the Application was made.

- 4.3 The Tribunal found that the Applicant is entitled to recovery of the property. The Tribunal had regard to the circumstances of the Applicant and evidence that he is retiring and he has actively instructed a selling agent. The property is in excess of the Respondent's requirements for herself and her son. The Applicant has maintained the same rent charge since the tenancy commenced 10 years ago. He has accepted a rent below a market rent. The Respondent does not dispute the ground for the Applicant seeking recovery of possession. She is actively seeking alternative housing through Edinburgh City Council. They will not assess her needs until an Eviction Order is granted. She has one adult son living with her. She is in full time employment and receives an element of Universal Credit.
- 4.4 Accordingly, the Tribunal was satisfied that it is reasonable to grant an order for eviction. The Tribunal was not minded to postpone enforcement. The Respondent has been aware of the Applicant's intention to recover possession to sell since 1st December 2025. The Eviction Order being issued will cause Edinburgh City Council to assess the Respondent's application and needs.

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.

**H Macandrew
Legal Member/Chair**

**6th October 2026
Date**