Housing and Property Chamber
First-tier Tribunal for Scotland

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/26/0230

Re: Property at 19 Beecraigs Way, Plains, ML6 7GD ("the Property")

Parties:

Mrs Jillian Murtagh, Mr Paul Murtagh, Lochieling, Drumpellier, Coatbridge, ML5 2EH ("the Applicants")

Ms Suzanne Miller, 19 Beecraigs Way, Plains, ML6 7GD ("the Respondent")

Tribunal Members:

Hilary Macandrew (Legal Member) and Ahsan Khan (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 15th January 2026 the Applicant sought an order under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

1.2 The application to the Tribunal was made by Form E and was accepted for determination by the Tribunal on 28th May 2026.

1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondent by Sheriff Officer on 18th August 2026

1.4 The Applicant lodged the following documents in advance of the case management discussion (CMD): -

- Private Residential Tenancy agreement

- Notice to Leave ('NTL')
- Section 11 Notice
- Evidence of instruction to Sell the property
- Written Statement from the Applicant

The Respondent lodged no documents in advance of the CMD.

1.5 The CMD was set to take place on 26th October 2026. Intimation was given to the Respondent by Sheriff Officers on 18th August 2026.

2) The Case Management Discussion

2.1 The CMD took place by tele conference on 26th October 2026. The Applicants took part on their own account. The Respondent took part on her own account.

2.2 The Applicants sought the Eviction Order based on Ground 1 of Schedule 3 of the Act.

2.3 Mr Murtagh spoke on behalf of the Applicants. He asked the Tribunal to grant the Eviction Order. He referred to the fact that the Respondent had lived in the property with her children since 7th December 2015. The original tenancy was replaced with a Private Residential Tenancy Agreement which commenced on 25th April 2023. Mr Murtagh referred to the appropriate Notices to end the Tenancy having been served timeously and he referred to the instruction of an estate agent to sell the property. He explained to the Tribunal that the Applicants had owned and let out the property for 15 to 20 years. Whilst they were both still working, they need to sell for financial reasons. There is a mortgage on the property which requires to be repaid.

2.4 The Respondent explained that she is 47 years old and she lives in the property with 6 children aged between 10 and 24. The youngest children are aged 10 and 15. They attend the local primary and secondary schools respectively. The children have a variety of special needs. The youngest child attends the Base Unit at school where she has learning support. There is no social work involvement with the family. Three of the children spend their weekends with their father. The property is a 6-bedroom property. She does not dispute that the Applicants are genuine in their reason for seeking the eviction order. She has made an application to the local authority for housing. She is willing to move anywhere. She appreciates she may have to accept a smaller property. She was previously offered a 4-bedroom property. She was willing to accept the property. There was a prolonged delay which adversely affected the children's mental health. The property was ultimately unavailable. She herself is anxious about the process and wants to have herself and the children settled. She requires the Eviction Order for the Local Authority, but they are already processing her application. She does not wish additional time to be added to the requisite period before enforcement, as the local authority will act in accordance with their homeless process once there is an Eviction Order. She had been through the homeless process previously. She wishes certainty with the order being granted and a housing allocation progressed.

2.5 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 CMD 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 Tenancy agreement is a Private Residential Tenancy Agreement which commenced on 25th April 2023.

3.2 On 23rd September 2025 the Applicant served Notice to Leave on the Respondent under Ground 1 of Schedule 3 to the Act. The Notice to Leave became effective from 19th December 2025. The Notice was correctly drafted and provided sufficient Notice.

3.3 The Applicant wishes to sell the property, and the Respondent does not oppose the grant of the Eviction Order.

3.4 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 it is reasonable to grant the Order.

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 Applicant's personal circumstances, the Respondent's personal circumstances and the fact that the Respondent was not opposing the Application. She has taken active steps to secure accommodation for herself and her family with the Local Authority. She wishes the certainty for herself and her children that the Eviction Order is granted so that her housing application can be progressed. She has previous experience of the homeless housing process.

4.4 Accordingly, the Tribunal was satisfied that it is reasonable to grant an order for eviction.

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.

Hilary MacAndrew

H Macandrew	**26th October 2026**
Legal Member/Chair	**Date**