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 of the Private Housing Tenancies (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/26/2065

Re: Property at 33 Hilton Heights, Hilton Road, Aberdeen, AB24 4QE ("the Property")

Parties:

Ms Thushari Hapuarachchi, Mr Shane Reid, 21 Hilltop Road, Cults, AB15 9RL ("the Applicant")

Mr Chris Jones, 33 Hilton Heights, Hilton Road, Aberdeen, AB24 4QE ("the Respondent")

Tribunal Members:

Shirley Evans (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order against the Respondent for possession of the Property at 33 Hilton Heights, Hilton Road, Aberdeen, AB24 4QE under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") be granted. The order will be issued to the Applicants after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees, and others together with their goods, gear and whole belongings furth and from the Property and to make the same void and redd that the Applicants or others in their name may enter thereon and peaceably possess and enjoy the same.

Background

1. This is an application for eviction for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Regulations"). The Applicants' case is

based on Ground 1 (Landlord intends to sell the Property) of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

2. The application was accompanied by a Private Residential Tenancy Agreement commencing 1July 2019, a Notice to Leave dated 3 February 2026 with covering email, Terms of Business from Grant Smith Law Practice dated 29 January 2026, an email to Aberdeen City Council dated 9 May 2026 with a Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003.

3. On 28 May 2026, the Tribunal accepted the application under Rule 9 of the Regulations.

4. On 15 August 2026 the Tribunal issued a copy of the application and advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 4 November 2026 and invited the Respondent to make written representations to the application by 5 September 2026. This paperwork was served on the Respondent by Thomas Davidson , Sheriff Officer, Aberdeen on 20 August 2026 and the Certificate of Intimation was received by the Tribunal administration.

5. The Respondent did not lodge written representations.

Case Management Discussion

6. The Tribunal proceeded with the CMD on 4 November 2026. Mr Doran from Raeburn Christie Clark and Wallace, Solicitors appeared on behalf of the Applicant. There was no appearance by or on behalf of the Respondent despite the CMD starting 5 minutes late to allow him plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence.

7. The Tribunal had before it the Private Residential Tenancy Agreement commencing 1July 2019, the Notice to Leave dated 3 February 2026 with covering email, Terms of Business from Grant Smith Law Practice dated 29 January 2026, an email to Aberdeen City Council dated 9 May 2026 with a Notice in terms of Section 11 of the Homelessness (Scotland) Act 2003. The Tribunal noted the terms of these documents.

8. Mr Doran moved the Tribunal to grant on Order to evict. He submitted that the application proceeded on Ground 1 of Schedule 3 of the 2016 Act as the Applicants wanted to sell the Property. Their reasons for doing so were twofold. Firstly, the sale of the Property was part of their retirement planning. Secondly although they own another two properties they are both in negative equity. The Applicants need to remortgage on these properties and need to realise the sale proceeds on the Property to do so.

9. Further he submitted that the Respondent had stopped paying rent and was now £3000 in arrears. Neighbours had also reported that the Respondent and his teenage son had started to move out of the Property into another Property over the road. The Applicants had received an emergency call as the property below the Property was experiencing water coming in. It appears the kitchen blind had become caught on the kitchen tap during the recent storm, turning it on and leading to water leaking into the property below. The Respondent's son gave access so the tap could be turned off. It appears the Respondent and his son had partially moved out and were unaware of this. They are hoping to move out completely soon. However the keys have not been handed in and accordingly the Applicants need the Order to evict.

Reasons for Decision

10. The Tribunal considered the issues set out in the application together with the documents lodged in support. The Tribunal considered the submissions made by Mr Doran.

11. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 gives the power to the Tribunal to evict if it finds that any of the grounds in Schedule 3 apply. This application proceeds on Ground 1, namely the Landlord intends to sell the Property. This is a discretionary ground of eviction. As well as being satisfied the facts have been established to support the grounds, the Tribunal has to be satisfied that it is reasonable to evict.

12. In terms of Section 52 of the 2016 Act the Tribunal is not to entertain an application for an eviction order unless it is accompanied by a Notice to Leave, unless it is not made in breach of any of sections 54 to 56 and unless the eviction ground applied for is stated in the Notice to Leave accompanying the application.

13. Notice to Leave is defined in terms of Section 62 of the 2016 Act. The Notice to Leave clearly states it is the Applicants' intention to sell the Property at Part 2 of the Notice in terms of Ground 1 of schedule 3. The Notice to Leave specifies the date the landlord expects to become entitled to make an application for an eviction order and specifies a date in terms of Section 54(2) in this case 30 April 2026. In this case the Notice to Leave was deemed to be received by the Respondent 5 February 2026 being 48 hours after being sent to the Respondent in terms of Section 62(5). In terms of Section 54 the notice period of the Notice to Leave is 84 days. In the circumstances the Tribunal is satisfied the Respondent have been given sufficient notice. Accordingly, the Notice to Leave served on the Respondent complies with Section 62 (1).

14. The Tribunal considered the submissions made on behalf of the Applicants.. The Tribunal was satisfied on the basis of the documents lodged, together with the submissions made that the factual basis of the application had been established in relation to Ground 1 and was satisfied the Applicants intended

to sell the Property. However, Ground 1 is a discretionary ground of eviction. The Tribunal also has to be satisfied that it is reasonable to evict.

15. In determining whether it is reasonable to grant the order, the Tribunal is required to weigh the various factors which apply and to consider the whole of the relevant circumstances of the case. In this case the Tribunal was satisfied that the Applicants' intention was to sell the Property when they obtained possession. They had clearly had cause to do so due to their retirement plans and the need to remortgage. The Tribunal gave considerable weight to those facts. On the other hand, the Tribunal also gave considerable weight to the fact that the Respondent did not oppose the application and had started to move out of the Property to another property just across the road. All things considered, the Tribunal considered the balance of reasonableness in this case weighted towards the Applicants. The Tribunal find it would be reasonable to grant the order.

16. In the circumstances the Tribunal considered that in terms of Ground 1 of Schedule 3 it was reasonable to grant an eviction Order in terms of Section 51 of the 2016 Act.

Decision

17. The Tribunal granted an Order for repossession. The decision of the Tribunal was unanimous.

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.

Shirley Evans

4 November 2026

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Legal Member **Date**