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 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("the Act")

Chamber Ref: FTS/HPC/EV/26/2249

Re: Property at 20 2F1 Springvalley Gardens, Edinburgh, EH10 4QE ("the Property")

Parties:

Ms Elizabeth Cumming, 31 Cluny Gardens, Edinburgh, Midlothian, EH10 6BH ("the Applicant")

Ms Felicity Bach, 20 2F1 Springvalley Gardens, Edinburgh, EH10 4QE ("the Respondent")

Tribunal Members:

Hilary Macandrew (Legal Member) and Robert Buchan (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 13th May 2026 the Applicant sought an order under Section 71(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 4th June 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 Rental Tenancy agreement
- Notice to Leave ('NTL') and proof of service
- Section 11 Notice
- Evidence of instruction to Sell the property
- Written Statement from the Applicant

1.5 The Respondent lodged the following document in advance of the CMD;
- A Written Submission

1.6 The Case Management Discussion was set to take place on 19th 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 19th October. The Applicant was represented by Mr Barr of DJ Alexander, Letting Agents. The Respondent was represented by Mr Andrew Wilson of the Edinburgh Housing Advice Partnership.

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

2.3 Mr Barr asked the Tribunal to grant the Eviction Order. He referred to the Applicant having instructed the sale of the property once it is vacant. He explained the Applicant's personal circumstances referring to the Applicant's written statement. The Applicant is in her late 70's. She no longer wishes to be a landlord. She wishes to simplify the finances of herself and her husband. The property has a mortgage in which the monthly payments are increasing, making it uneconomic to rent the property. Since the application was raised her family situation has changed and she needs to provide financial assistance to a family member. She will have the means to assist the family member once the property is sold.

2.4 Mr Wilson referred to the Respondent's written submission. She does not oppose the grant of the Eviction Order. She is single, 85 years old and retired. The property has been her home for over 18 years and she suffers poor health. She has taken advice on alternative housing to meet her needs. She will require an Eviction Order before a housing assessment can be carried out by the local authority. On the Respondent's behalf he sought a postponement of the time for enforcement of an Eviction Order of ten weeks beyond the usual timescale. This will allow her three clear months in which to have the opportunity to obtain assistance from the local authority and secure a permanent tenancy.

2.5 Mr Barr confirmed that the Applicant would not oppose such a postponement.

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 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 4th September 2024.

3.2 On 3rd February 2026 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 1st May 2026. 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 subject to a postponement of the enforcement date.

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, being in receipt of advice was not opposing the Application. The Tribunal considered in the circumstances narrated by Mr Wilson and accepted by Mr Barr that a postponement of the enforcement date for the Eviction Order was reasonable.

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	**19 October 2026**
Legal Member/Chair	**Date**