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

Chamber Ref: FTS/HPC/EV/26/1826

Re: Property at 7 Abbotsford Lane, Hamilton, ML3 0RR ("the Property")

Parties:

Mrs Gill Sutherland, Mr John Sutherland, both residing at 101 Acacia Way, Cambuslang, G72 7ZY ("the Applicants")

Mr Oluwafemi Ayegbusi, Mrs Oluwafunmilola Ayegbusi, both residing at 7 Abbotsford Lane, Hamilton, ML3 0RR ("the Respondents")

Tribunal Members:

James Bauld (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application for the order for possession should be granted but that the earliest date for enforcement should be delayed until 28 February 2027.

Background

1. By application dated 23 April 2026, the applicants sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the Act") and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the procedure rules").

2. On 14 May 2026 the application was accepted by the tribunal and referred for determination by the tribunal.

3. A Case Management Discussion (CMD) was set to take place on 27 October 2026, and appropriate intimation of that hearing was given to both the landlord and the tenants.

The Case Management Discussion

4. The Case Management Discussion took place on 27 October 2026. The applicants were not in attendance but were represented by Miss Donna Marie Stewart of Igloo estate agents, Hamilton. The respondents were personally present.

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. Prior to the case management discussion, the respondents had lodged written representations setting out their position in response to the application

8. The respondents accepted that the applicants intended to sell the property. In their written representations, they indicated they had formally expressed an interest in purchasing the property to avoid displacement and remained open to negotiating a purchase of the property from the applicants.

9. They also indicated that they would be willing to pay a higher rent if that meant they could remain within the property.

10. The respondents also indicated they had no desire to obstruct the applicants' long-term plans and that they were actively and continuously searching for alternative accommodation since receiving the notice

11. They submitted in their representations that an immediate eviction would cause disproportionate and severe hardship to the family. The respondents occupy the property with three children presently age 7, 4 and 3 years old.

12. The respondents indicated that Mrs Ayegbusi is employed locally within Hamilton and that they wish to secure a home within the local area to allow her to maintain her employment

13. In their representations, they submitted that the granting of an immediate eviction order would be unreasonable and requested that the tribunal exercise its discretion to refuse an immediate order and grant a substantial extension of time to allow them an opportunity to secure alternative accommodation in the local area

14. In response to those written representations, the applicants' representative had also emailed the tribunal confirming that the applicants were willing to sell the property to the respondents. Miss Stewart indicated she had advised the respondents to seek appropriate advice from a mortgage advisor and had

also offered them an alternative rental property in the Blantyre area, albeit at a higher rent than the current property.

15. The response from the applicants indicated that the date of any eviction could be discussed and the time for the granting of any order extended until after Christmas

16. At the case management discussion parties were questioned by the tribunal with regard to the application and the matters contained in the written representations

17. There was no dispute between the parties with regard to the existence of the tenancy, the service of the notice to leave nor the ground for eviction being used by the applicants

18. The only matter therefore to be determined by the tribunal was whether it was reasonable to grant the order and, if so, whether the enforcement of the order should be delayed

19. Miss Stewart, on behalf of the applicants indicated that in September the respondents had confirmed to her that they had obtained an offer of a mortgage in principle and were willing to try to buy the property. She indicated that the applicants had thereafter obtained a Home Report which valued the property at £200,000 and that the applicants had indicated they would be willing to sell the property to the respondent at that valuation. Miss Stewart pointed out that in the majority of situations, properties will sell for prices in excess of the valuation contained in the Home Report

20. It was an indicated that the respondents had then made a formal offer to purchase the property at a price significantly lower than the valuation set out in the home report. The applicants were not willing to accept that lower price.

21. In response to the questions from the tribunal, the respondents confirmed that they had offered a lower price than the home report valuation because they believed there were certain works required to be carried out the property and that they also wished to carry out certain internal renovations such as redecoration. It was confirmed that the potential sale of the property to the respondent would not be proceeding.

22. This evidence clearly supported the ground for eviction that the applicants intend to sell the property.

23. Further questioning from the tribunal related to the respondent's current employment situation and family situation. It was noted that Mrs Ayegbusi is employed full-time at local care home and earns a salary of approximately £26,000 per year. Mr Ayegbusi indicated he is qualified medical doctor and occasionally has temporary work as a doctor in the Bristol area and also temporary work as a support worker in the local area. Mr Ayegbusi indicated

that his gross earnings in the last year were in the region of £35,000-£45,000. He also indicated that if he worked in Bristol, he required to incur travel costs and accommodation costs while working there

24. The respondents have three children. The oldest is seven years of age and attends a local primary school. The other two are respectively aged four and three years old and attend a local nursery school.

25. The respondents confirmed that they have a car, although Mrs. Ayegbusi cannot drive. The car is sometimes used to take the children to and from their schools

26. The respondents confirmed that they had viewed an alternative rental property on the day prior to the CMD and were awaiting a response from the landlord.

27. The respondent confirmed that they are not able to apply for council accommodation as they are Nigerian nationals who are resident in the United Kingdom on specific visas which preclude them from having recourse to public funds. It was their position that this prevents them obtaining housing from the local authority. Their visas are due to expire in 2030. Mr. Ayegbusi Indicated that his visa allows him to be resident in the UK as a dependent of Mrs. Ayegbusi

28. During further discussions it was noted that the respondents were not willing to pay a rental above a level of approximately £930 per month. No particular explanation was given for that figure.

29. The tribunal noted that the applicants wished to sell the property because Mrs. Sutherland was now suffering from an illness which had required her to give up work and Mr. Sutherland was now effectively her career. He has also required to give up work. They are unable to claim certain benefits because they own the property and it is treated as capital in excess of the limit allowed for certain benefits. Miss Stewart was unable to provide any detailed information relating to the ages of the applicants, their previous employment and their current financial and family situation,

30. The tribunal indicated to parties that it had a number of options open to it

31. It could remit the entire application to an evidential hearing.

32. It could determine that it was in a position to make a final decision at the case of management of discussion on the basis set out in rule 18 of the procedure rules, namely that having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case and to do so will not be contrary to the interests of the parties;

33. It was indicated that if the tribunal decided that it could make an order, it could then delay enforcement of that order for a period of time to allow the respondents to secure alternative accommodation

34. After further discussion it was noted that the respondents would not object to the eviction order being granted if the tribunal delayed the enforcement of the order.

35. Both parties then indicated that if an order was granted and delayed until the end of February 2027 then that would be an outcome acceptable to both sides

36. The Tribunal then concluded the case management discussion and indicated that it would make a decision based on the evidence contained in the application, the written representations and the evidence presented at the case management discussion

37. The tribunal thanked parties for the attendance and the assistance which they had provided to the tribunal during the case management discussion

Findings in fact

38. The applicants and the respondents as respectively the landlord and tenant entered into a tenancy of the property which commenced on 25 February 2025.

39. The tenancy was a private residential tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016. (“the Act”)

40. The agreed rental was £895 per month.

41. On 16 January 2026 the applicants served upon the tenants a Notice to Leave as required by the Act. The Notice was served by sheriff officers upon the respondents and became effective on 14 Apri, 2926

42. The notice informed the respondents that the landlord wished to seek recovery of possession using the provisions of the Act.

43. The notice was correctly drafted and gave appropriate periods of notice as required by law.

44. The notice set out a ground contained within schedule 3 of the Act, namely ground 1 that the landlords intended to sell the let property

45. The applicants intend to sell the let property

Reasons for the decision

46. The order for possession was sought by the landlord on a ground specified in the act and properly narrated in the notice served upon the tenant.

47. The tribunal was satisfied that the notice had been served in accordance with the terms of the act and that the landlord was entitled to seek recovery of possession based upon that ground.

48. The tribunal accepted the evidence of the landlords that they intend to sell the property. This intention was not challenged by the respondents and was fully supported by the actings of the applicants in obtaining a Home report and indicating their willingness to sell the property to the respondents

49. The tribunal accepted the evidence that the tenants ultimately do not oppose the granting of the order. They indicated that they are actively seeking alternative accommodation. They hope to rent an alternative property and at some point, to possibly purchase a property. They both accept that the landlords are entitled to sell the property, and they understand the reasons for doing so. They indicated that it would be helpful if the tribunal delayed the granting of the order for a period of time to allow them to continue their attempts to obtain alternative accommodation.

50. Miss Stewart indicated that the applicants would accept that if the order was granted that a delay to the end of February would not cause them significant inconvenience and would be acceptable to them. The applicants accept that the respondents have been excellent tenants and their requirement to sell the property is no reflection on the respondents as tenants. They need to sell the property for cogent personal reasons to assist them with certain issues relating to ongoing financial and health conditions

51. The ground for eviction under which this application was made is the ground contained in paragraph 1 of schedule 3 of the 2016 Act. The ground is that the that the landlord intends to sell the let property. It was not disputed that the ground for eviction was accordingly established

52. When the 2016 Act was originally passed, that ground of eviction was mandatory. When this tenancy commenced that ground of eviction was mandatory. The tribunal was required by law to grant the eviction order if satisfied that the ground was established.

53. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on this ground can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact

54. 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. This is confirmed by one of the leading English cases, ***Cumming v Danson***, ([1942] 2 All ER 653 at 655) in which Lord Greene MR said, in an oft-quoted passage:

> ***"[I]n 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 conclusion 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".***

55. The tribunal finds that it is reasonable to grant the order. The balance in this case favours the applicants. If the order is not granted the applicants face potentially significant hardship giving their current health and financial situation. The tribunal believes that the respondents will be able to find similar alternative accommodation if given a reasonable period of time to do so. The applicants have no alternative other than selling the property to raise capital to assist in their current health and financial situation.

56. The tribunal is aware that at some point in the near future it will be required, when granting an eviction order, to consider whether the enforcement of that order should be delayed.

57. The tribunal has a discretion currently to decide that enforcement of an order should be delayed

58. The tribunal accepts that the landlords are entitled to sell the property and wish to do so. The tribunal accepts that the tenants are not opposed to the sale of the property. They are also taking steps to secure alternative accommodation.

59. The tribunal accepts that the landlords intend to sell the property and wish to do so as quickly as possible. The tribunal is required to balance the competing interests of the parties. The respondents may face homelessness if the order is enforced within a very short period of time. Accordingly, the tribunal takes the view that the enforcement of the order should be delayed for a period of time to allow the respondents to attempt to secure alternative accommodation. The tribunal will delay the enforcement of the order until 28 February 2027 to allow the respondents additional time to obtain alternative

accommodation. It is noted that parties effectively agreed that this disposal was acceptable to them.

60. The tribunal would advise the respondents to seek appropriate advice from a suitably expert advice agency or solicitor relating to their immigration status and in particular to their entitlement to seek rented accommodation in the social rented sector. The tribunal has noted the comments made by the respondents with regard to the particular restrictions contained in their visa, but it may be that those restrictions apply solely to housing provided by local authorities and not by housing associations who are registered social landlords. It is not a matter for the tribunal to advise on this topic, but the tribunal strongly encourages the respondents to seek and obtain specific advice on this particular matter. There may be a number of options open to the respondents in the social rented sector including mid-market rental properties.

61. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that the final order should be made at the CMD. The tribunal was satisfied that the relevant terms contained in rule 18 of the procedure rules were also met, namely that having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case and to do so will not be contrary to the interests of the parties and that it could therefore make a final decision at the case management discussion

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.

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Legal Member/Chair **Date: 27/10/2026**