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/26/1962

Re: Property at Flat 3/2, 1080 Cathcart Road, Glasgow, G42 9XW ("the Property")

Parties:

Mr William McDevitt, Flat 2/1, 1 Queen Square, Strathbungo, Glasgow, G41 2BG ("the Applicant")

Mr Hamish James Sutton, Flat 3/2, 1080 Cathcart Road, Glasgow, G42 9XW ("the Respondent")

Tribunal Members:

Gabrielle Miller (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 2nd May 2026. The application was submitted under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations"). The application was based on Ground 4 of the Private Housing (Tenancies) (Scotland) Act 2016.

2. On 31st August 2026, all parties were written to with the date for the Case Management Discussion ("CMD") of 4th November 2026 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 21st September 2026.

3. On 1st September 2026, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 1st September 2026.

4. The case was conjoined with case FTS/HPC/EV/26/5469.

The Case Management Discussion

10. A CMD was held on 4th November 2026 at 2.00 pm by teleconference. The Applicant was present and represented himself. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD.

11. The Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.

12. The Applicant confirmed that he wished an order for eviction to be made. He said that he had received notice from the Respondent that he would be leaving the Property by the end of November 2026. The Applicant still wished to have an order for eviction in the event that the Respondent did not vacate the Property.

13. The Applicant wishes to live in the Property as it is larger. He lives with his 14-year-old son and his dog. He intends to convert it into a three-bedroomed property, thereby providing more space for them all.

14.

Findings and Reasons for Decision

15. The Applicant is the registered owner of the Property.

16. A Private Residential Tenancy Agreement commenced on 5th April 2025 although it was not in the standard form, with the result that it was an unwritten PRT under section 3 of the Act.

17. On 6th February 2026, the Applicant served upon the Respondent a Notice to Leave as required by the Act. Service was effected by hand delivery and the Notice was received by the Respondent on 6th February 2026.

15. The Notice informed the Respondent that the Applicant wished to seek recovery of possession under the provisions of the Act.

16. The Notice was correctly drafted and gave the appropriate period of notice as required by law.

17. The Notice set out one of the grounds contained within Schedule 3 of the Act, namely Ground 4 (that the Applicant intends to live in the Property).

18. The Applicant now wishes to live in the Property. Ground 4 has therefore been established.

19. This is a no-fault ground of eviction.

20. The Respondent is intending to leave the Property by the end of November 2026.

21. The Respondent has no known vulnerabilities or disabilities.

22. The basis for an order for possession on Ground 4 was therefore established.

Reasons for the Decision

26. The order for possession sought by the Applicant was based on a ground specified in the Act and properly narrated in the Notice to Leave served upon the Respondent. The Tribunal was satisfied that the Notice had been served in accordance with the provisions of the Act and that the Applicant was entitled to seek recovery of possession on that ground.

27. The Tribunal accepted the evidence presented on behalf of the Applicant with regard to Ground 4. That evidence was supported by an affidavit.

28. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020, an eviction order on Ground 4 can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on that ground.

29. The Tribunal has a duty, in such cases, to consider the whole circumstances in which the application is made. It follows that anything that might dispose the Tribunal either to grant the order or decline to grant the order will be relevant. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all of 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".**

31. In this case, the Tribunal finds that it is reasonable to grant the order.

32. The Tribunal decided to exercise the power within Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

Decision

34. The Tribunal found that Ground 4 had been established and granted an order in favour of the Applicant.

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.

Gabrielle Miller

4th November 2026

Legal Member/Chair **Date**