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 ('the Act')

Chamber Ref: FTS/HPC/EV/26/0586

Re: Property at 2 Fleming Road, Bishopton, PA7 5HW ("the Property")

Parties:

Mrs Kirsteen Rankin, 8 Maxwell Road, Bishopton, PA7 5HE ("the Applicant")

Mr Harry Fitzsimmons, Mrs Katherine Fitzsimmons, 2 Fleming Road, Bishopton, PA7 5HW; 2 Fleming Road, Bishopton, PA7 5HW ("the Respondents")

Tribunal Members:

Hilary Macandrew (Legal Member) and Elizabeth Williams (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 27th 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 17th April 2026.

1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondents by sheriff officers on 27th July and 27th 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
- Letter of Engagement with Estate Agent
- Mortgage Redemption Statement
- Section 11 Notice and proof of intimation
- The Title Sheet for the Property

1.5 A Case Management Discussion was set to take place on 15th October 2026. Intimation was given to the Respondents by Sheriff Officers on 27th July and 27th August 2026

2) The Case Management Discussion

2.1 The CMD took place by tele conference on 15th October. The Applicant Mr Rankin was present and was represented by Ms Newberry of Clarity Simplicity, Solicitors. The Respondents took part personally. Mr Fitzsimmons spoke on their behalf.

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

2.3 Ms Newberry asked the Tribunal to grant the Eviction Order. She referred to the Applicant's wish to sell the property. The Applicant has instructed an estate agent. The Applicant no longer wishes to be a landlord. This is the Applicant's only rental property. There is an interest only mortgage which will reach the end of its term next year. The property must be sold to repay the mortgage.

2.4 Mr Fitzsimmons stated that the Respondents accept that the Applicant wishes to sell the property. The Respondents have looked for property elsewhere. They have found a suitable property, signed a lease and paid the initial rent. They are in the process of packing up the property. They both work. They have three children and have arrangements to make regarding schooling and other domestic arrangements. It is a very anxious time for the Respondents having enjoyed an established family home in the property. They had initially contacted the local authority for housing and been told that they needed to produce an eviction order. Their new tenancy is not a local authority property.

2.5 Ms Newberry was asked if in the circumstances as narrated by the Respondents, were her clients insisting on the eviction order. She stated that the Applicant was insisting on the eviction order to secure the recovery of the property for sale. The Respondents have not yet moved out. Mr Fitzsimmons stated that the Respondents were not opposing the grant of the Eviction Order.

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 CMB 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 Rental Tenancy Agreement which commenced on 28th June 2019.

3.2 On 11th November 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 4th February 2026. The Notice was correctly drafted and provided sufficient Notice.

3.3 The Applicant wishes to sell the property.

3.4 The Respondent does not oppose the Application.

3.5 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 wish to sell the property. They have instructed an estate agent. They have an interest only mortgage which must be repaid in 2027. They need to sell the property to realise the funds to repay the mortgage in full. Thy no longer wish to be Landlords. The Applicants wish the comfort of an Eviction Order so they can regain possession and have the property marketed for sale. The Respondents have secured a lease for another property. They are actively preparing for a move. The do not oppose the grant of an Eviction Order. They have not yet moved out of the property.

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.

H Macandrew **15th October 2026**

Legal Member/Chair **Date**