



**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/25/2758**

**Re: Property at 101 Elmbank Crescent, Hamilton, ML3 9JF (“the Property”)**

**Parties:**

**Amexx Properties UK Ltd, Family Choice 78-80, Farm Road, Hamilton, ML3 9LD (“the Applicant”)**

**Ms Christine Smith, 101 Elmbank Crescent, Hamilton, ML3 9JF (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member) and Jane Heppenstall (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction relying on ground 1 (landlord intends to sell) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The Tribunal determined that it was reasonable to suspend enforcement of the order for a period of 12 weeks until 11 March 2026.**

**Background**

1. By application dated 26 June 2025 the applicant seeks an order for eviction on the ground that they intend to sell the property.
2. The applicant lodged the following documents with the application:
  - Copy tenancy agreement
  - Section 11 notice
  - Notice to leave with proof of service

- Correspondence with Your Move regarding marketing the property for sale.
3. A case management discussion (“cmd”) was assigned for 17 December 2025

#### **Case management discussion – 17 December 2025- teleconference**

4. The applicant was represented by Mr Gildea, John, Jackson & Dick solicitors. The respondent was represented by Mr Roberts, Citizens Advice Hamilton.
5. Mr Gildea sought an order for eviction relying on ground 1. Mr Roberts stated that the respondent did not oppose an order for eviction however she sought a suspension of the period before the order is enforced.
6. Mr Roberts stated that the respondent resides alone in the property. She is recovering from cancer and has a number of medical issues which affect her mobility. The respondent is hoping to secure a more suitable ground floor property. Mr Roberts sought a 12 week suspension of enforcement to allow the respondent to make applications for alternative housing from the local authority and other social landlords. Citizens Advice would assist her with the applications process. Mr Roberts stated that the respondent did have an existing application with the local authority however she would receive additional priority if an eviction order was granted. The extended period would also provide her with time to make arrangements to physically remove from the property.
7. Mr Gildea opposed the requested extension. He stated that an extension of 2 months would be more reasonable. He stated that the applicant has 2 other properties which are rented out. The applicant has been frustrated at the length of time the eviction process has taken.

#### **Findings in fact and law**

8. Parties entered into a private rented tenancy agreement with a commencement date of 8 January 2023.
9. The applicant is the sole owner of the property.
10. The applicant intends to sell the property.
11. The respondent resides alone.
12. The respondent has issues with her mobility as a result of medical conditions.
13. The respondent does not oppose an order for eviction being granted.

14. The respondent is on the local authority waiting list for housing
15. The respondent hopes to obtain a ground floor property more suited to her personal circumstance.
16. The respondent will be assisted by Citizens Advice Hamilton to apply for alternative accommodation.
17. The applicant is a landlord of 3 properties.

### **Reasons for decision**

18. Rule 17 (4) states:

*The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.*

19. Rule 18 states:

*Power to determine the proceedings without a hearing*

**18.—(1) Subject to paragraph (2), the First-tier Tribunal—**

*(a) may make a decision without a hearing if the First-tier Tribunal considers that—*

*(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and*

*(ii) to do so will not be contrary to the interests of the parties; and*

*(b) must make a decision without a hearing where the decision relates to—*

*(i) correcting; or*

*(ii) reviewing on a point of law,*

*a decision made by the First-tier Tribunal.*

*(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.*

20. The Tribunal was satisfied that it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

21. Ground 1 states:

*(1) It is an eviction ground that the landlord intends to sell the let property.*

*(2) The First-tier Tribunal may find that the ground named by sub-paragraph*

*(1) applies if the landlord—*

*(a) is entitled to sell the let property,*

*(b)intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and*

*(c)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.*

*(3)Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—*

*(a)a letter of engagement from a solicitor or estate agent concerning the sale of the let property,*

*(b)a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.*

22. The Tribunal accepted the evidence that the applicant intended to sell the property. This was not disputed by the respondent.
23. The Tribunal proceeded to make a determination of whether it was reasonable to grant an order for eviction. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against
24. The Tribunal gave significant weight to the fact that the respondent did not oppose the order for eviction being granted and made no objection to the reasonableness of the order being granted.
25. In relation to the respondent's request to vary the date of execution to allow a period of 12 weeks for her to find alternative accommodation the Tribunal determined that 12 weeks was a reasonable period to defer execution.
26. The Tribunal gave weight to the fact that the respondent had medical conditions which impacted her daily life and would make the process of removing from the property more difficult.
27. The Tribunal also gave weight to Mr Robert's submissions that Citizens Advice would be assisting the respondent with her applications for alternative housing and that a 12 week period would allow time for those applications to be processed and increase the possibility of suitable alternative accommodation being secured.

28. The Tribunal gave weight to the fact that there were no issues with the respondent's conduct as a tenant and no rent arrears. The Tribunal also took into account that the respondent was not defending the action.
29. The Tribunal took into account Mr Gildea's submissions opposing the suspension in light of the further delay to the applicant.
30. The Tribunal determined that in light of the foregoing factors 12 weeks was a reasonable period of time to allow the respondent to remove from the property.

### **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.**

# Mary-Claire Kelly

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Legal Member/Chair

17 December 2025  
Date