



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 (the 2016 Act) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules)

Chamber Ref: FTS/HPC/EV/25/2653

Re: Property at 17 Scalloway Road, Lerwick, Shetland, ZE1 0LD (the Property)

Parties:

Mr John Halcrow and Mrs Elizabeth Halcrow, Backaburn, Hamnavoe, Shetland, ZE2 9LA (“the Applicant”)

Mr Ben Davies and Miss Shauni Hunter, 17 Scalloway Road, Lerwick, Shetland, ZE1 0LD (the Respondents)

Tribunal Members:

**Ms. Susanne L. M. Tanner K.C. (Legal Member)
Mr Gerard Darroch (Ordinary Member)**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal) is satisfied that Ground 1 in Schedule 3 to the 2016 Act is established by the Applicants, namely the landlords are entitled to sell the let Property and intends to sell it for market value or at least put it up for sale within three months of the tenants ceasing to occupy it; and that it is reasonable to issue an eviction order on account of those facts; and the tribunal made an order for eviction in terms of section 51 of the 2016 Act.

The decision of the tribunal is unanimous.

Reasons

Procedural Background

1. On 11 June 2024 the Applicants submitted an application and on 6 November 2024, following further enquiries from the tribunal, the Applicants submitted an amended Application to the tribunal in terms of section 51 of the 2016 Act and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules).
2. The Applicants seek an order for eviction of the Respondents from the Property under Ground 1 of Schedule 3 to the 2016 Act, in summary that the landlords intend to sell the let Property or at least put it up for sale within three months of the Respondents ceasing to occupy it.
3. The Applicants lodged with the Application:
 - 3.1. Notice to Leave;
 - 3.2. Proof of Notification of Notice to Leave by email;
 - 3.3. Section 11 Notice;
 - 3.4. Proof of service;
 - 3.5. Proof of instruction of sales agent and valuation; and
 - 3.6. Private Residential Tenancy agreement.
4. The Applicants also produced title deeds for the Property.
5. The Application was originally rejected by a legal member of the tribunal acting under the delegated powers of the Chamber President. Following an Upper Tribunal determination on a point of law (2025UT68; UTS/AP/25/0019, dated 27 August 2025) the Application was accepted for determination by a tribunal. All parties were notified by letters dated 16 October 2025 of the date, time and place of Case Management Discussion (CMD) in relation to the Application on 25 November 2025 at 1000h by teleconference. The Respondents were invited to make written representations in response to the Application by 6 November 2025. All parties were advised that they were required to attend the CMD. The parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing an eviction order. The parties were also advised that if they do not attend the CMD this will not stop a decision or order being made if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. The Application paperwork and notification was personally served on the Respondents by Sheriff Officers.

6. The Respondents did not submit any written representations in response to the Application, or make any contact with the tribunal prior to the day of the CMD.

Case Management Discussion (CMD) 25 November 2025, 1000h: Teleconference

7. Mr Halcrow attended on his own behalf and on behalf of his wife, the second Respondent.
8. Mr Davies and Miss Hunter, the Respondents, attended.
9. Miss Hunter and Mr Davies confirmed that the Application for an eviction order is not opposed. They said that they understood the effect of an eviction order. They said that they have made an application to the council for housing. They have been told that there is nothing the council can do until they get an eviction order, or that there may be somewhere several years down the line. They have been looking at private housing as well but have not found anything suitable. They have two children, aged 4 and 2. The Property is a two bedroomed flat. They have been asked by the Council to provide an update on the tribunal proceedings after the CMD.
10. Mr Halcrow stated that the whole process has now gone on for two years. The initial discussions with the Respondents were through the letting agents. He said that he has tried to be utterly reasonable with the Respondents throughout the process. He said that in any event, the Property is no longer ideal for the Respondents' circumstances, as they have had their second child. Mr Halcrow stated that the eviction has not been opposed from the outset. The Respondents require more suitable accommodation from the council. Mr Halcrow stated that he and his wife want to move on and sell the Property. It was inherited from his mother. They have no other rental properties. They wish to leave the private landlord market.

11. The tribunal makes the following findings-in-fact:

- 11.1. The Applicants are the proprietors of the Property.
- 11.2. The Applicants entered into a private residential tenancy with the Respondents with a start date of 27 January 2020.
- 11.3. The Applicants wish to exit the landlord market.
- 11.4. The Property is the Applicants' only rental property.
- 11.5. The Applicants require to sell the Property with vacant possession.

- 11.6. Notice to Leave was served on the Respondents on 6 December 2023 under Ground 1 of Schedule 3.
- 11.7. The Application to the tribunal was made on 11 June 2024.
- 11.8. The Respondents do not oppose their eviction from the Property.
- 11.9. The Respondents have made an application to the local authority for housing.
- 11.10. There are two children aged four and two living with the Respondents in the Property.

Discussion

12. The Application for an order for eviction was not opposed.
13. The tribunal was satisfied on the basis of the findings in fact that Ground 1 in Schedule 3 of the 2016 Act is established.
14. The tribunal was satisfied that in all the circumstances, it was reasonable to make an order for eviction.
15. The tribunal therefore made an order for eviction in terms of Section 51 of the 2016 Act. Due to the festive holidays, and the fact that the tribunal's administration will not be open on 25 or 26 December 2025, and the Applicant's position about being reasonable in relation to the date for enforcement, rather than 25 December 2025, the date for enforcement is delayed until 27 December 2025.

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.

25 November 2025

Ms. Susanne L. M. Tanner K.C.
Legal Member/Chair