



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/25/2260

Re: Property at 4 The Paddock, Kingskettle, Fife, KY15 7PF (“the Property”)

Parties:

Ms Maureen Ward, 17D Kingsview Apartments, Burntisland Rd, Kinghorn, KY3 9TT (“the Applicant”)

Mrs Lucinda Mary Middleton, 4 The Paddock, Kingskettle, Fife, KY15 7PF (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction.

Background

1. By application dated 26 May 2025 the applicant seeks an order for eviction relying on ground 1 – landlord intends to sell the property in schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Notice to leave with proof of delivery
 - Letters to the respondent and permitted occupier
 - Sales agreement with estate agent
 - Rent increase notices with proof of delivery
3. A case management discussion (“cmd”) was assigned for 8 January 2025.

4. In advance of the cmd the applicant's representative submitted an application to amend the application together with further written submissions on behalf of the applicant.

Case management discussion – 9 January 2026 - teleconference

5. The applicant was present and represented by Mr McTigue, Solicitor, Jackson Boyd Lawyers. The respondent appeared on her own behalf.
6. Mr McTigue moved for the application to be amended. He submitted that the application incorrectly specified ground 10 at part 5 on the application form. He submitted that the incorrect ground had been specified due to an administrative error by the letting agents who had prepared the form. The correct ground as specified in the notice to leave is ground 1. The Tribunal allowed the amendment which was not opposed.
7. Mr McTigue sought an order for eviction. He referred to the written submissions that had been lodged on behalf of the applicant. The notice to leave served on the respondent by email on 9 January 2025 had given the respondent notice that the landlord intended to sell the property. He stated that the respondent had vacated the property in April 2025 in accordance with the notice to leave. He stated that a permitted occupier named on the lease, namely Carey Middleton remained in the property and the present action was therefore necessary.
8. Mr McTigue stated that no rent had been received since June 2025. Monthly rent due was £750. Mr McTigue stated that there was an outstanding mortgage over the property for which the applicant was liable. The applicant had decided to sell the property as part of her financial planning for retirement. She no longer wished to be a landlord particularly due to the stress of the conduct of the tenancy. He stated that the applicant had not had access to the property for 8 months and was concerned about the condition of the property.
9. The respondent stated that she did not wish to oppose the application. She stated that she had moved out of the property due to relationship breakdown. She had moved permanently to another property. She stated that Mr Middleton had remained in the property. The respondent stated that she had helped to pay the rent for a couple of months after she had moved out but that she had

anticipated that Mr Middleton would then have moved out. She had not expected him to continue to reside in the property and for the present application to be necessary. The respondent stated that Mr Middleton is 69 years old. She stated that he had been receiving advice from Fife Rental Solutions to try and find somewhere else to live. The respondent stated that Mr Middleton has a number of medical conditions and was engaging with the local authority to find alternative accommodation. She stated that he was currently not working and in receipt of benefits. She confirmed that Mr Middleton was aware of the cmd.

Findings in fact

10. Parties entered into a private rented tenancy agreement with a commencement date of 31 August 2018.
11. The applicant is the sole owner of the property.
12. The applicant intends to sell the property.
13. A valid notice to leave was served on the applicant on 9 January 2025.
14. The respondent occupied the property with Mr Carey Middleton.
15. The respondent moved out of the property in April 2025.
16. Mr Carey Middleton from whom the respondent is separated, continues to reside in the property.
17. Rent due in terms of the lease and subsequent rent increase notices is £750 per month.
18. No rental payments have been made since June 2025.
19. Mr Middleton is named on the lease as a “permitted occupier”.
20. The respondent does not seek to oppose an order for eviction being granted.
21. Mr Middleton is not working and is in receipt of benefits.
22. Mr Middleton is receiving advice regarding alternative accommodation.
23. There is an outstanding mortgage over the property.
24. The applicant intends to use the proceeds from the sale of the property to redeem the mortgage and as part of her financial planning for retirement.
25. The applicant does not wish to continue to be a landlord.
26. The applicant has not had access to the property for 8 months and is concerned regarding the condition of the property.

Reasons for the decision

27. 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.

28. 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.

29. 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.

30. 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.

31. The Tribunal accepted the evidence that the applicant intended to sell the property. This was not disputed by the respondent.
32. 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
33. 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.
34. The Tribunal also gave significant weight to the applicant's circumstances and the fact that she wished to sell the property to repay the outstanding mortgage and as part of her financial planning for retirement. The Tribunal gave considerable weight to the fact that since June 2025 the monthly rent of £750 had not been paid which resulted in considerable rent arrears. The Tribunal accepted the submissions made on behalf of the applicant.
35. The Tribunal took into account the fact that Mr Middleton continued to reside in the property. The Tribunal took into account his personal circumstances. An order for eviction would lead to him losing his home. Against that the Tribunal took into account the evidence from the respondent that she had expected him to leave the property shortly after she had left and the lack of payment of any rent since June 2025. The Tribunal also took into account the information provided by the respondent that Mr Middleton was receiving advice regarding sourcing alternative suitable accommodation.
36. Giving particular weight to the lack of opposition to an order being granted the Tribunal considered that in the foregoing circumstances it was on balance 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.

M.C-Kelly

Legal Member/Chair

Date: 08/01/2026