



**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”)**

**Chamber Ref: FTS/HPC/EV/25/3468**

**Re: Property at 10 Wemyss Street, Cowdenbeath, Fife, KY4 8NN (“the Property”)**

**Parties:**

**Ms Sandra Whitelaw, 6 Thistle Street, Cowdenbeath, Fife, KY4 8NG (“the Applicant”)**

**Ms Evelyn Sinclair, 10 Wemyss Street, Cowdenbeath, Fife, KY4 8NN (“the Respondent”)**

**Tribunal Members:**

**Sarah O'Neill (Legal Member) and Frances Wood (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that an order for recovery of possession should be granted in favour of the Applicant. The tribunal delayed execution of the order until 8 May 2026.**

**Background**

1. An application was received from the Applicant’s representative on 12 August 2025 under rule 109 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (‘the 2017 rules’) seeking recovery of the property under Ground 1 (landlord intends to sell) as set out in Schedule 3 of the 2016 Act.
2. Attached to the application form were:
  - (i) Copy private residential tenancy in place between the parties, which commenced on 26 August 2022.

- (ii) Copy Notice to Leave addressed to the Respondent dated 23 December 2024 citing ground 1, and stating the date before which proceedings could not be raised to be 18 March 2025
  - (iii) Copy notice under section 11 of the Homelessness etc. (Scotland) Act 2003 addressed to Fife Council
- 3. Further to requests from the tribunal administration, further information was received from the Applicant's representative on 9 September 2025. This included:
  - (i) Letter dated 8 September 2025 from Fife Properties, the Applicant's letting agent, confirming that the Notice to Leave was delivered to the Respondent in person on 23 December 2024.
  - (ii) Covering email dated 5 September 2025 sent to Fife Council with the section 11 notice .
- 4. A letter dated 9 September 2025 regarding the Applicant's mental health was received from a psychiatrist at Queen Margaret Hospital in Dunfermline on 17 September 2025.
- 5. The application was accepted on 1 October 2025.
- 6. Notice of the case management discussion (CMD) scheduled for 10 March 2026, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the tribunal on 22 January 2026. The Respondent was invited to submit written representations by 11 February 2026.
- 7. No written representations were received from the Respondent prior to the CMD.
- 8. The tribunal issued a direction to the Applicant on 9 February 2026, directing her to provide further information by 3 March 2026. A response to the direction was received on 25 February 2026.

### **The case management discussion**

- 9. A CMD was held by teleconference call on 10 March 2026. The Applicant was present on the call and was represented by her friend, Ms Penny King. The Respondent was present on the teleconference call and represented herself.

### **Preliminary issue**

- 10. The Respondent indicated that she had not seen the direction response received from the Applicant on 25 February 2026, which had been sent to her by post. The submission, which was 5 pages long, comprised a letter from the Applicant's estate

agent regarding the proposed sale of the property and a letter from her mortgage lender. The tribunal clerk emailed the submission to the Respondent during the CMD and the tribunal allowed her time to read this during a brief adjournment.

### **Submissions on behalf of the Applicant**

11. Ms King asked the tribunal to grant an eviction order. She said that the Applicant needed to sell the property as soon as possible. The Applicant's interest-only mortgage over the property had ended in November 2025. As evidenced by the correspondence from her mortgage lender, Lloyds Bank, which had been submitted to the tribunal, she would owe the lender a total of £48,217.29 as at 31 March 2026. She currently has an agreement with the bank to continue paying the same monthly mortgage payment on a month to month basis, pending the outcome of the CMD.
12. The Applicant is unable to work due to her health issues, and she has no means of paying the money due to the bank other than by selling the property. If she does not pay it back, the bank will repossess the property and the Respondent would then become homeless anyway. The Applicant does not wish to continue as a landlord or to renew her landlord registration when it comes up for renewal.
13. Ms King confirmed that it remained the Applicant's intention to sell the property for market value, or at least put it up for sale, within three months of the Respondent ceasing to occupy it. Her estate agent was just waiting to value the property so that it can be put on the market as soon as possible.
14. The situation is causing the Applicant a great deal of stress and was exacerbating her mental health issues, as confirmed in the letter from her psychiatrist. The Applicant owns no other rental properties and is currently living with her elderly parents.
15. The Applicant has been very reasonable and has given the Respondent plenty of notice. She had sent at least one previous Notice to Leave in October 2022, just a few months after the Respondent moved into the property. The most recent Notice to Leave had expired on 18 March 2025, but the application had not been made to the tribunal until 12 August 2025.
16. The Applicant and Ms King had spoken to Fife Council when the Notice to Leave expired. The council was aware of the situation regarding the Respondent and her husband, and it had been implied that she was unlikely to be rehoused until an eviction order was granted.

## **The Respondent's submissions**

17. The Respondent told the Tribunal that she accepted that the Applicant intended to sell the property. She had been waiting for another house for a long time and had some of her belongings packed already.
18. She is separated from her husband, who has motor neurone disease, and is terminally ill. Because there was no-one else to look after him, she was caring for him. She was therefore spending much of her time at his home, and was staying there regularly. She was however going to the property at least once or twice a week and staying there some nights. She needed to have some space for herself.
19. She and her husband are in their sixties. Her husband had made an application to the council for more suitable housing for his needs, which is all on one level and is wheelchair accessible. The application was for housing for both of them to live in. His current home was not big enough for both of them. It had only one bedroom, and she was sleeping in the living room. He had applied for eight properties, but had so far been unsuccessful. Once he was given such accommodation, she intended to move in with him. She had asked the Applicant if he could move into the property with her, because it is on one level, but the Applicant had said no.
20. The Respondent had not put in a separate application for housing. The council knew that she had her husband were looking for a two-bedroomed property. A local councillor was trying to help them to find a suitable home.
21. She had done nothing wrong and had always paid her rent. She said that she was willing to buy the property from the Applicant, to avoid any further stress for both parties. She said that her son would be able to buy it for her and that they could move very quickly. This was not something she had put to the Applicant prior to the CMD.
22. The Respondent said that she is disabled following an accident when working as a home carer. This affects her upper body and she is unable to work. She is in receipt of Adult Disability Payment and her rent is paid via universal credit. She said that she also suffers from mental health issues, but she did not appear to have sought medical help with this or to be receiving treatment for it.
23. It became apparent during the discussion that the Respondent had not spoken to the council about the eviction application and the CMD. She had contacted them when she received the Notice to Leave and they had advised her to stay in the property at that time. She had been waiting for an offer to be made to her husband and had not made further contact with the Council.

## **Further submissions on behalf of the Applicant**

24. Having heard the Respondent's evidence, Ms King said that while the Applicant was sympathetic to the Respondent's circumstances, she could not delay things any further as she was under pressure from the bank. The Respondent had not recently approached the Applicant about the possibility of buying the property, though this was something which had been mentioned after the Notice to Leave was served. If the Respondent wished to buy the property, she could make an offer for it once it was on the open market. The bank expected the property to be advertised for sale in the usual way.

25. The Applicant did not, however, consider that the property was suitable for the Respondent and her husband to live in, as it has only one bedroom.

## **Findings in fact**

26. The tribunal made the following findings in fact:

- The Applicant is the sole owner of the property. She is therefore entitled to sell the property.
- The Applicant is the registered landlord for the property.
- There is a private residential tenancy agreement in place between the parties, which commenced on 26 August 2022.
- The Notice to Leave was validly served on the Respondent by personal service on 23 December 2024.
- The Applicant intends to sell the property or put it up for sale within 3 months of the Respondent ceasing to occupy it.
- The Applicant is unable to work due to her health issues.
- The Applicant's interest-only mortgage over the property ended in November 2025. She will owe the bank a total of £48,217.29 as at 31 March 2026.
- The property has one bedroom.
- The Respondent lives in the property alone for part of the time. She is currently spending much of her time caring for her terminally ill husband,
- The Respondent is not in employment due to her health issues, and is in receipt of benefits.

## **Reasons for decision**

27. The tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to

determine the case and 2) to do so would not be contrary to the interests of the parties.

28. The tribunal considered whether the legal requirements of Ground 1, as set out in Schedule 3 of the 2016 Act (as amended), had been met. Ground 1 states:

***Landlord intends to sell***

*1(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, and*

*(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.*

29. The tribunal determined that as the sole owner of the property, the Applicant is entitled to sell the property.

30. The tribunal then considered whether the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it. The tribunal noted that the Applicant had produced a letter from Delmor Estate Agents confirming that she had instructed them to sell the property as soon as it was vacant. The tribunal was satisfied that this is evidence tending to show that the Applicant has the intention set out in sub-paragraph 2(b) of Ground 1.

31. The Respondent did not dispute that the Applicant was entitled to, or intended to, sell the property. The tribunal had regard to the oral evidence of Ms King and the letter from Delmor Estate Agents.

32. Having considered all of this, the tribunal determined that the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it.

***Reasonableness***

33. The tribunal then considered whether it was reasonable to make an order for recovery of possession. In doing so, it took into account all of the circumstances of the case.
34. The tribunal noted that the Respondent's current circumstances are very difficult. She is caring for her terminally ill husband and is not in good health herself. She pays her rent each month and there was no suggestion that she has not been a good tenant. She has been in the property for more than three and a half years, and is facing eviction through no fault of her own.
35. The tribunal was aware, however, that the Applicant's circumstances were also difficult. She needs to repay her lender the outstanding sum due following the end of her mortgage and her only means of doing so is to sell the property. She is unable to work due to ill health. She does not own any other rental properties and no longer wishes to be a landlord. She has given the Respondent plenty of notice of her intention to sell the property: the Notice to Leave was served on her in December 2024.
36. The tribunal also took into account the fact that the Respondent appeared to accept that the Applicant had the right to sell the property and that she had already packed some of her belongings. This suggests that she accepted that she would have to move out. Moreover, she is not currently living in the property for much of the time.
37. The tribunal noted that there was a difficult balance to strike here. It was sympathetic to the difficulties of both parties. Having carefully considered all of the evidence and all of the circumstances of the case as set out above, the tribunal considered that on balance it was reasonable to grant an eviction order.
38. In reaching its decision, the tribunal gave particular weight to the fact that the Applicant would only be able to pay off her mortgage to the bank if she were to sell the property. If she was unable to do so, it was likely that the bank would repossess the property and that the Respondent would therefore be evicted in any case.

39. The tribunal also gave weight to the fact that the property was unsuitable accommodation for the Respondent to live in with her husband and that they need to find somewhere more appropriate for both of their needs. If an eviction order were to be made against the Respondent, this may help them to secure alternative accommodation, as the council is aware of their needs.
40. The tribunal therefore determined that an order for recovery of possession should be granted in favour of the Applicant.
41. Before deciding to grant the order, the tribunal sought the views of both parties on the possibility of delaying execution of the eviction order in terms of rule 16A of the 2017 rules, to give the Respondent more time to speak to the council and find suitable alternative accommodation.
42. Ms King said that the Applicant needed to get access to the property as soon as possible to prepare it for sale. The bank would not wait and it was up to the bank whether any extension was acceptable.
43. The Respondent repeated her offer to buy the property. She said that the council was unaware of the CMD, but had previously told her to stay put. She was desperate to find suitable housing for her husband as soon as possible, and she had nowhere else to go. She did not know how long it might take the council to find them somewhere suitable.
44. Having taken into account the parties' views, the tribunal considered that it would be reasonable in all the circumstances to delay execution of the order for four weeks until 8 May 2026.

## **Decision**

The tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the property. The tribunal delayed execution of the order until 8 May 2026.

## **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.

S. O'Neill

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Legal Member/Chair

10 March 2026  
Date