



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

Chamber Ref: FTS/HPC/EV/25/4474

Re: Property at 3E Armour Street, Johnstone, Renfrewshire, PA5 8HQ (“the Property”)

Parties:

Mrs Susan McFall, 28A Ranfurly Road, Bridge of Weir, Renfrewshire, PA11 3EL (“the Applicant”)

Mr Robert McHugh, 3E Armour Street, Johnstone, Renfrewshire, PA5 8HQ (“the Respondent”)

Tribunal Members:

Alastair Houston (Legal Member) and Eileen Shand (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order in terms of paragraph 1 of schedule 3 of the 2016 Act be made in favour of the Applicant.

1. Background

- 1.1 This is an application under rule 109 of the Chamber Rules whereby the Applicant seeks an eviction order on the basis that they intend to sell the property. The application was accompanied by copies of the written tenancy agreement between the parties, the notice to leave given to the Respondent, section 11 notice given to the local authority, confirmation of instruction of an estate agent to market the property upon vacant possession being obtained and text messages between the parties.
- 1.2 The application was intimated to the Respondent by Sheriff Officers. No written representations were received from the Respondent in advance of the Case Management Discussion.

2. The Case Management Discussion

- 2.1 The Case Management Discussion took place on 30 March 2026 by teleconference. The parties appeared personally.
- 2.2 The Tribunal heard firstly from the Applicant. She confirmed that she still intended to sell the property. She and her husband were now in their seventies. They were both retired and were looking to also retire from letting property. They had bought the property with an inheritance and now required the capital from it. They had owned one other property which had been sold and this was the only rental property remaining. The property was a one bedroom, top floor flat. The Applicant appreciated the situation the Respondent was in in terms of obtaining alternative accommodation but the notice to leave had been given nine months ago and they were being prevented from selling.
- 2.3 The Respondent confirmed that he had received the notice to leave. He did not dispute the Applicant's intention to sell. He resided at the property alone. He was in full time employment as an apprentice engineer and also working some weekends as a chef. His earnings from his main employment were £377.00 per week. He had been unable to secure alternative accommodation. He had applied directly to Williamsburgh, Link and Linstone Housing Associations. He had been given some priority by them but no offers had been made as yet. He had contacted the local authority for assistance and had been advised to remain at the property until an eviction order was granted otherwise he may be considered intentionally homeless. He had also looked for accommodation in the private sector but rents for similar properties were up to £300.00 per month higher than the £425.00 per month currently paid.
- 2.4 The Tribunal indicated that it did not require any further information from the parties, nor would a hearing be required. A decision would be issued in due course following consideration of the application and that said at the Case Management Discussion.

3. Reasons For Decision

- 3.1 The Applicants had given valid notice to leave to the Respondent. The had demonstrated a prima facie intention to sell the property within three months of vacant possession being obtained. Given that said by the parties, the Tribunal did not consider that a hearing was necessary given that there was no dispute in fact, with the only issue for the Tribunal to determine being one of reasonableness.
- 3.2 The legislation did not specify any particular factors to which the Tribunal was to have regard beyond the factual matters which constituted the ground for an eviction order relied upon. Accordingly, the Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah* 1947 SC 245 whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the application was made.

3.3 The Tribunal placed weight on the circumstances of the Applicant. She had articulated a reasoned decision to sell, given that she and her husband were retirees and seeking to access the capital within the property. They had no other rental properties. It was within the Tribunal's knowledge that, in the event that an eviction order was granted on the basis of the ground specified, the local authority would owe duties to the Respondent in terms of Part II of the Housing (Scotland) Act 1987 as a person threatened with homelessness. The Respondent appeared to be aware that further assistance would be forthcoming once the order were granted. The Tribunal also placed weight on the Respondent's circumstances. He was in full time employment and, whilst the private sector may require higher rents than that currently paid, given his income he ought not be entirely precluded from accommodation in that sector. In the circumstances, it was reasonable to grant the order sought. The Tribunal accepted the Respondent's position as to the general shortage of housing in the social sector and was minded to grant the order with a further delay in enforcement of an additional month to allow the Respondent additional time to engage with the local authority in respect of the duties owed to him.

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.

Legal Member/Chair

Alastair Houston

30 March 2026

Date