



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/25/3206

Re: Property at 7 Ancrum Drive, Dundee, DD2 2JG (“the Property”)

Parties:

Ms Brenda Greene, 419 Srathmartine Road, Dundee, DD3 9BS (“the Applicant”)

Mr Mohammed Rashad Abdulwahed Al Husni, 7 Ancrum Drive, Dundee, DD2 2JG (“the Respondent”)

Tribunal Members:

Craig Chisholm (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. By application dated 24th July 2025, the applicant sought an order under section 51 of the 2016 Act and in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (procedure) Regulations 2017 (“the procedure rules”). On 11th September 2025 the application was accepted by the tribunal and referred for determination by the tribunal.
2. A Case Management Discussion (CMD) was set to take place on 6th March 2026, and appropriate intimation of that hearing was given to all parties.

The Case Management Discussion

3. The CMD took place on 6th March 2026 *via* telephone conference call. The Applicant was personally present. The Respondent was not personally present or represented at the CMD.

4. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
5. The tribunal asked various questions of the Applicant with regards to the application.
6. The Applicant confirmed she wished for the order for eviction to be made.
7. The Applicant confirmed her intention to sell the Property for market value within three months of the Respondent's ceasing to occupy it. The Applicant confirmed the appointment of an estate agent and Solicitors, to market and sell the Property, namely Gilson Gray, once the Respondent's ceased to occupy it. The Applicant told the Tribunal that the Property required some work prior to selling and that would be done prior to it being sold. The Applicant confirmed she was selling the Property due to upcoming retirement and wished stop being a landlord in generally, which has impacted on her own mental health.

Findings in Fact

8. The Applicant is the registered owner of the Property.
9. The Applicant and the Respondent(s) are respectively the landlord and tenants who entered into a Private Residential Tenancy Agreement for the Property commencing 1st January 2021.
10. The Applicant personally served a Notice to Leave on the Respondent's on 22nd February 2025. This was personally served on the Respondent. Reference is made to the Notice to Leave document, which appeared to have been signed by the Respondent. Furthermore, a letter was produced with the signature of the Respondent and occupiers, which acknowledged delivery of the Notice to Leave on the Respondent on 22nd February 2025.
11. The Applicant intends to sell the property for market value. The Applicant is due to retire and no longer wishes to be a landlord which she has found onerous, which has had an impact on her own mental health.
12. Dundee Law Centre had written to the Tribunal on 2nd February 2026 confirming their representation of the Respondent. In the letter of 2nd February 2026, it was submitted that the Respondent did not oppose the application being granted and considered the Property overcrowded and not suitable for him noting medical reasons.

Reason for Decision

13. The application was submitted with a Notice to Leave dated 22nd February 2025 with evidence it was personally served on the Respondent on 22nd February 2025.
14. The Notice to Leave stated eviction was sought on the basis of ground 1 of Schedule 3 of 2016 Act, namely the landlord intends to sell the Property. The Notice to Leave states the earliest date that an application can be made to the Tribunal was 22nd May 2025.
15. The application to the Tribunal was made after the expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant submitted a copy of the Section 11 Notice issued to the Local Authority. The Applicant submitted to the Tribunal that the Section 11 Notice was issued prior to proceedings being raised. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
16. Section 51(1) of the 2016 Act states:

“The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.”
17. Ground 1 of Schedule 3 of the 2016 Act 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.”*
18. From the documents submitted in support of the application and the submissions provided by the Applicant during the CMD, the Tribunal are satisfied the Applicant intends to sell the property form market value within 3 months of the Respondent seeking to occupy it and that it is reasonable to issue an eviction order in the circumstances.
19. The Tribunal were satisfied the Applicant was the owner of the Property.

20. The Tribunal were satisfied the Applicant intended to sell the Property for market value. Documentation was provided in support of the application that Gilson Gray, estate agents and solicitors had been instructed to market and sell the Property on behalf of the Applicant.
21. The Tribunal considered whether it would be reasonable to grant the order and noted the following:-
- a. The Respondent's did not attend the CMD, nor were they represented. From the letter issued on their behalf by Dundee Law Centre on 2nd February 2026, it is noted the Respondent does not oppose the application. The Applicant confirmed discussions with the Respondent directly stating the Respondent indicated the Local Authority would not re-home him and his family until they have been evicted. The granting of the order would assist in this process;
 - b. The Property is overcrowded and no longer suitable due to medical reasons; and
 - c. The Applicant had a genuine intention to sell the Property due to seeking forthcoming retirement and does not wish to be a landlord any longer.
22. The Tribunal considers the Applicant has complied with the requirements of the 2016 Act and that ground 1 of Schedule 3 of the 2016 Act has been established. For the reasons outlined above, the Tribunal were satisfied it would be reasonable to grant the order for eviction.

Decision

23. The ground for eviction based on landlord intends to sell was accordingly established.
24. The tribunal has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant. This is confirmed by one of the leading English cases, *Cumming v Danson*, [1942 2 All ER 653 at 655, where Lord Green MR said:

“In considering reasonableness... it is, on my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusions given such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account.”

25. in determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.

26. In this case, the tribunal finds that it is reasonable to grant the order. The balance of reasonableness in this case is weighted towards the landlord in this application for the above noted reasoning.

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.

Craig Chisholm

06/03/2026

Legal Member/Chair

Date