



**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/25/3190**

**Re: Property at 64 Dick Terrace, Irvine, KA12 9HS ("the Property")**

**Parties:**

**Mr Peter Reavey, 71 Glen Road, Newry, County Down, BT34 1TA ("the Applicant")**

**Ms Jess Kirkwood, 64 Dick Terrace, Irvine, KA12 9HS ("the Respondent")**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Helen Barclay (Ordinary Member)**

**Decision**

At the Case Management Discussion ("CMD") which took place by telephone conference on 5 March 2026 the Applicant was not in attendance but was represented by Mrs Erin McLemon of BE Listed. The Respondent was present and was represented by Ms Andrea Gibson of CHAP, Ardrossan.

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

**Background**

The Tribunal noted the following background:-

- i. The Applicant and Karen Mary Reavey are the heritable proprietors of the Property.
- ii. The application concerns a Private Residential Tenancy ("PRT") entered into between the parties relative to the Property that commenced in November 2022.
- iii. The Respondent has occupied the Property since 2010.
- iv. On 24 February 2025, the Applicant served on the Respondent a Notice to Leave requiring the Respondent remove from the Property by 23 May 2025 on the basis of Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act"). The Notice to Leave stated that the Applicant requires to sell the Property due to increased mortgage payments.
- v. The Applicant has served on North Ayrshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

## **The CMD**

At the outset of the CMD and in the absence of any written representations the Tribunal sought to establish the Respondent's position relative to the application. Ms Gibson for the Respondent stated:-

- i. The Respondent does not oppose an eviction order being granted. However she asks that enforcement of the order be delayed for 2 months or more.
- ii. The Respondent needs the eviction order to be granted in order that emergency housing will become available.
- iii. The Respondent requires an accessible house. An occupational therapy assessment has been done.
- iv. The Respondent lives with her son who is 26 years of age. He is not in employment. He recently lost his job and has signed on for state benefits.
- v. The Respondent is not fit for work. She is in receipt of disability benefits.
- vi. The Respondent requires a two bedroomed property. Her son acts as her carer.
- vii. The Respondent has been awaiting surgery for 2 years. The surgery is expected within the next few months.
- viii. The Respondent has the option to move in with a family member whilst waiting which she would consider.

Mrs McLemon for the Applicant made the following submissions in response to questions from the Tribunal:-

- i. In that the 2022 PRT had not been produced by the Applicant (only the signing page) Mrs McLemon stated she would send on the PRT to the Tribunal.
- ii. The start date of the PRT was 29 November 2022.
- iii. The rent was agreed to be £475 per month in terms of the PRT.
- iv. When the Applicant bought his properties he took an interest only mortgage. He bought at "peak time". Mortgages are now higher and the capital growth is not as expected. The rent does not cover the mortgage.
- v. The Applicant sold one property last month. He will sell the other three properties (including the Property) when vacant. They are all tenanted. He is dealing with one property at a time.
- vi. The Applicant requires to repay the full capital payment relative to the mortgage over the Property. He requires to repay within 6 months or remortgage. He would rather sell the Property than remortgage.
- vii. The Applicant's intention is not to be a landlord.
- viii. The Applicant is aware of the Respondent having medical issues and that surgery is awaited. He is prepared to be flexible with the Respondent and will not add to her pressure. He is happy to wait until the Property is vacated.
- ix. The rent was increased to £525 per month in February 2025 which is still below market value.

Ms Gibson made further submissions for the Respondent as follows:-

- i. The Respondent believes the Applicant's mortgage has ended and been paid.
- ii. The Respondent received another Rent Increase Notice recently to £550 per month. That Notice is not valid.

The Tribunal briefly adjourned.

## **Reasons for Decision**

The application proceeds upon Ground 1 of Schedule 3 of the 2016 Act.

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.*
- (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."*

The Applicant is entitled to sell the Property in terms of sub-paragraph 2(a), being the heritable proprietor thereof.

Sub-paragraph 2(b) requires that the Applicant intends to sell the Property for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it. Sub-paragraph 3 gives examples of the evidence that might be produced to show the landlord has the intention described in sub-paragraph 2(b). In this instance the Applicant relies upon a Sole Agency Agreement of Smart Sales & Investments dated 17 and 18 July 2025 relative to the Property and another property. The Tribunal accepts this document as sufficient to meet the terms of sub-paragraph 2(b).

The Tribunal also requires to be satisfied that it is reasonable to issue an eviction order in terms of sub-paragraph 2(c). The Tribunal took into account that the Respondent has no objection to an eviction order being granted and indeed needs an eviction order to be granted in order to secure alternative accommodation.

The Tribunal noted, however, that the PRT had not been produced by the Applicant and therefore intimated to the parties that whilst it was prepared to in principle to grant an eviction order of consent it would not do so until the PRT had been produced.

The Tribunal also carefully considered whether to delay the execution of the eviction order once granted in terms of Rule 16A(d) of the First-tier Tribunal Housing and Property Chamber Rules of Procedure 2017 all as requested by the Respondent and to which the Applicant had no objection.

The Tribunal concluded that it would be reasonable to provide the Respondent with an extended period of time to secure alternative accommodation. Accordingly, the Tribunal determined that the enforcement of any eviction order subsequently be granted be suspended for a period of 2 months from the date of the CMD.

#### **Further Documentation Produced**

By email dated 5 March 2026 Mrs McLemon produced a copy of the PRT.

**Decision**

Of consent, the Tribunal grants an eviction order against the Respondent in favour of the Applicant in terms of Ground 1 of Schedule 3 of the 2016 Act with enforcement of the order suspended until 12 noon on 5 May 2026 in terms of Rule 16A(d) of the First-tier Tribunal Housing and Property Chamber Rules of Procedure 2017.

**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.**

# Gillian Buchanan

**Gillian Buchanan**

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**Legal Member/Chair**

**23 March 2026**

**Date**