



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 26 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules') in relation to an application for eviction/ possession of a Rented Property in terms of Rule 109 of the Procedure Rules.**

**Chamber Ref: FTS/HPC/EV/25/1562**

**33 Lochinvar Road, Greenfaulds, Cumbernauld, G67 4AR ('the Property')**

**Parties:**

**Helen McGrory ('the Applicant')**

**Colin Duck, The McKinstry Company ('The Applicant's Representatives')**

**Sharon Coyle ('the Respondent')**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal')**

**Tribunal Members: Jacqui Taylor (Legal Member) and David Fotheringham (Ordinary Member)**

## **1. Background**

1.1. The Applicant submitted an application to the Tribunal for eviction/ possession of the Rented Property under section 51(1) of the Private Housing Tenancies (Scotland) Act 2016, in terms of Rule 109 of the Procedure Rules.

1.2 The application was dated 11<sup>th</sup> April 2024. The application states that the ground for eviction was as follows:

'Ground 1: The Landlord intends to sell the Let Property.'

1.3 Documents lodged with the Tribunal were:-

- The Private Residential Tenancy Agreement between the parties dated 29<sup>th</sup> July 2019.
- Notice to Leave dated 7<sup>th</sup> January 2025 advising the Tenant that an application will not be submitted to the Tribunal for an eviction before 6<sup>th</sup> April 2025 and the eviction ground is that the Landlord intends to sell the Property.
- Certificate of Execution of Notice to Leave by Liam MacGillvray, sheriff officer, dated 10<sup>th</sup> January 2025 confirming that the Notice to Leave was served on the Respondent on 10<sup>th</sup> January 2025.
- Email to North Lanarkshire Council dated 11<sup>th</sup> April 2025 attaching the Section 11 Notice.
- Section 11 Notice addressed to North Lanarkshire Council.
- Emails between the Applicant and Slater Hogg and Howison dated January, February and March 2025 regarding the proposed marketing of the Property, arranging access to enable the Property to be valued and the estimated value of the Property.
- A letter from John McGrory dated 9<sup>th</sup> May 2025 advising that whilst the title of the Property is in the joint names of himself and Helen McGrory the lease and eviction are in Helen McGrory's name alone.

2. By Notice of Acceptance by Fiona Watson, Convener of the Tribunal, dated 13<sup>th</sup> June 2025 she intimated that she had decided to refer the application (which application paperwork comprises documents received between 11<sup>th</sup> April 2025 and 9<sup>th</sup> May 2025) to a Tribunal.

### **3. Case Management Discussion**

This case called for a conference call Case Management Discussion (CMD) at 14.00 on 24<sup>th</sup> November 2025

The Applicant, the Applicant's Representative and the Respondent attended.

#### **3.1 Oral Representations by the Applicant's Representative:**

3.1.1 The Applicant wishes to sell the Property. She has instructed Slater Hogg and Howison to market the Property once she obtains vacant possession. She has also instructed McKinstry and Company to act for her in connection with the conveyancing.

3.1.2 The Property has four bedrooms.

3.1.3 Notice to Leave was served on the Respondent on 10<sup>th</sup> January 2025, eleven months ago.

3.1.4 There are rent arrears that amount to approximately £1500. This was the amount of the rent arrears several months ago.

3.1.5 The Landlord has taken a financial hit due to the level of the rent arrears.

3.1.6 The Respondent has had ample time to find alternative accommodation.

3.1.7 The Applicant had to remortgage another Property to meet their financial obligations.

3.1.8 He does not know how many other properties the Applicant owns.

3.1.9 The Applicant purchased the Property in 2019 and the Respondent has been a tenant of the Property since that time.

3.1.10 The mortgage over this Property was paid off in readiness for the sale.

3.1.11 The Respondent's housing situation will not be resolved until an eviction order is granted.

3.1.12 In connection with the Respondent's position that repairs are required to the Property the Applicant took steps regarding the pressing repairs that were required.

3.1.13 The Applicant's Representative wrote to the Respondent on 27<sup>th</sup> June 2025 regarding the rent arrears. She replied offering to pay £50 per month. His client did not consider that this was a reasonable offer and required the Respondent to increase the monthly payments to £500 per month. He did not receive a written response.

3.1.13 The Respondent has not made a repairing standard application to the Tribunal.

3.1.14 The Applicant wishes to sell this property irrespective of whether or not she owns other properties.

3.1.15 The three adult children residing in the Property are working and there is no obligation on the Applicant to house or support them.

3.1.16 If the eviction order were to be granted the Applicant would be happy for it to be postponed until 31<sup>st</sup> January 2026.

### **3.2 Oral Representations by the Respondent:**

3.2.1 She has not said that she would not provide access to viewings. The time suggested by Slater Hogg and Howison was not suitable.

3.2.2 She has applied to the Local Authority and numerous housing associations to be rehoused but they will not progress her applications until an eviction order is granted.

3.2.3 She resides in the Property with her daughter ( aged 8) and three other children ( ages 20, 22 and 23).

3.2.4 If she were to be rehoused the family unit would be broken up. The adult children would not be rehoused with the Respondent.

3.2.5 She acknowledges that the rent account is in arrears but advised that this is due to rent being withheld as works are required to the Property. She sent a letter to the Applicant dated 20<sup>th</sup> November 2024 detailing the works required. The works are:

- Mould and condensation in the bathroom.
- A ceiling vent is required.
- The front door is insecure.
- There is a hole in the external wall in the kitchen.
- The garden shed is in a hazardous condition and needs to be demolished or replaced.
- The sealant around the kitchen sink is in need of repair.
- There are cracks in the bath.

3.2.6 She has not submitted a repairing standard application to the Tribunal.

3.2.7 She has retained one months rent (£850) in an account pending completion of the repairs.

3.2.8 Her youngest child suffers from anxiety and has attended counselling. She only likes to be around her mother. She is getting there but has a long way to go.

3.2.9 She works in a pharmacy and is in receipt of some benefits. She receives no support from the fathers of her children.

3.2.10 The Property has not been adapted for the needs of the Respondent.

3.2.11 She is suffering from stress and anxiety due to her housing situation and also as she lost her father a year ago.

3.2.12 The Applicant owns another property which is vacant. The address of that Property is 27 Lochinvar Road. The tenant of that property handed back the keys four weeks ago.

### **3.3 Outcome of the CMD.**

The Tribunal determined that the application should proceed to a hearing.

### **4. Direction.**

The Tribunal issued a Direction dated 26<sup>th</sup> November 2025.

The Direction (i) advised the parties that a hearing would be fixed and at the hearing the Tribunal should be fully addressed on the financial position of the Applicant including details of the properties owned by her, any financial hardship she is experiencing and evidence of the repairs required to the Property and (ii) directed the Respondent to provide the Tribunal with a copy of the letter and other correspondence she sent to the Landlord regarding the alleged repairs required to the Property; photographic evidence of the repairs; evidence that the sum of £850 is held by the Respondent in a bank account in her name, as advised by the Respondent's Representative at the Case Management Discussion and evidence of her efforts to secure alternative accommodation.

## **5. Written Representations**

5.1 The Respondent lodged written representations dated 9<sup>th</sup> January 2026 and 8<sup>th</sup> May 2026.

5.2 The Applicant's Representative lodged written representations dated 12<sup>th</sup> January 2026 and 8<sup>th</sup> May 2026.

## **6. The Hearing.**

This case called for a conference call hearing at 10.00 on 11<sup>th</sup> May 2026.

The parties attended, together with the Applicant's Representative.

6.1 The Applicant's Representative addressed the Tribunal on the email from Garry Hamilton, a Private Sector Officer with North Lanarkshire Council dated 5<sup>th</sup> May 2026 which had been lodged with the Tribunal on 8<sup>th</sup> May 2026. He advised that the repairing standard inspection by North Lanarkshire Council took place after the last CMD but the Applicant only received confirmation of the outcome recently. In response the Respondent explained that she was not aware of North Lanarkshire Council having carried out an inspection. Mrs Taylor confirmed that the Tribunal were prepared to allow the email to be lodged late.

### **6.2 Oral Representations by the Applicant's Representative:**

6.2.1 The Applicant has the right to sell the Property.

6.2.2 He provided full details of the Applicant's financial circumstances in the email that he lodged dated 12<sup>th</sup> January 2026. Since that date the property 27 Lochinvar Road, Cumbernauld has been sold. The free proceeds were used to redeem the outstanding mortgage over the Applicant's UK home at Afton Lodge and other

liabilities. The Applicant's husband is working in the USA and they wish to relocate there and purchase property in the USA. They need a 70% deposit and need to sell 33 Lochinvar, Greenfaulds to achieve this. They currently rent a property in the USA and are concerned that if the Applicant's husband lost his job they would be unable to afford to continue renting a property in the USA.

6.2.3 The Tribunal is required to consider all of the circumstances when determining whether or not to grant this eviction.

6.2.4 The Respondent has not lodged evidence that she has been applying for private lets.

6.2.5 The Notice to Leave had been served on the Respondent over sixteen months ago.

6.2.6 The rent arrears amount to £1500.

6.2.7 At the CMD the Respondent provided a list of complaints in relation to the condition of the Property. All the items on that list have been attended to.

6.2.8 The Respondent has not made a repairing standard application to the Tribunal.

6.2.9 The Applicant has sympathy with the Respondent's position but the Tribunal has to take the whole circumstances into account in particular the economic impact of the situation on the Applicant and the fact that the Respondent will not move up the Local Authority housing list until an eviction order is issued.

### **6.3 Oral Representations by the Respondent:**

6.3.1 She confirmed that she has not made a repairing standard application to the Tribunal.

6.3.2 She agreed that the rent arrears amount to £1500.

6.3.3 Her eldest daughter has recently bought a property but she has still to move in to that property.

6.3.4 She is gradually moving up the housing list and is presently 15<sup>th</sup> on that list.

6.3.5 She acknowledges that the Applicant should be able to sell her Property.

6.3.6 She knows that an eviction order needs to be granted to progress her housing situation as she will not get another property without an order.

6.3.7 She needs to know the eviction date to enable her to move on.

## **7. Decision.**

### **7.1 Requirements of Section 109 of the Procedure Rules.**

**(a)** The Tribunal confirmed that the application correctly detailed the requirements of section 109(a) of the Procedure Rules namely:-

- (i) the name, address and registration number of the Landlord.
- (ii) the name and address of the Landlord's representative.
- (iii) the name and address of the Tenant.
- (iv) the ground of eviction. The ground stated in the application is that the Applicant intends to sell the Property.

The Tribunal accepted that this is Ground 1 of Schedule 3 of the 2016 Act.

**(b)** The Tribunal confirmed that the application correctly detailed the requirements of Section 109(b) of the Procedure Rules:

- (i) evidence showing that the eviction ground or grounds had been met.

The Tribunal finds that the email correspondence with Slater Hogg and Howison that has been lodged is sufficient in its terms.

- (ii) a copy of the notice to leave given to the Tenant as required by section 52(3) of the 2016 Act.

The Tribunal confirmed that the Notice to Leave was in correct form as set out in Schedule 5 of the Private Residential Tenancies Notices and Forms (Scotland) Regulations 2017 ('The 2017 Regulations').

The Notice to Leave was dated 7<sup>th</sup> January 2025 and advised the Tenant that an application would not be submitted to the Tribunal for an eviction order before 6<sup>th</sup> April 2025.

The Tenant had resided in the Property for more than six months and the application for eviction was based on ground 1 of Schedule 3 of the 2016 Act and therefore eighty four days notice was required. The Notice to Leave had been served on the Respondent on 10<sup>th</sup> January 2025. The Notice to Leave correctly gave the Tenant a minimum of eighty four days notice.

(iii) a copy of the notice given to the local authority as required by Section 56(1) of the 2016 Act.

The Tribunal confirmed that a copy of the required notice had been provided.

(c) The Tribunal confirmed that the application form had been correctly signed and dated by the Landlord's representatives as required by Section 109(c) of the Procedure Rules.

7.2 The Tribunal found that the Applicant had met the requirements of Ground 1 of Schedule 3 The Private Housing Tenancies (Scotland) Act 2016 for the following reasons:

7.2.1 The Tribunal had a copy of the Landlord's title DMB95437 and established that the Applicant is joint heritable proprietor of the Property and she is entitled to sell the Property together with her husband John McGrory.

7.2.2 Evidence had been provided that the Applicant intends to sell the Property, namely the emails between the Applicant and Slater Hogg and Howison dated January, February and March 2025, referred to previously.

7.2.3 The Tribunal find as a matter of fact that the Applicant intends to put the Property up for sale once she obtains vacant possession.

7.2.4 The Tribunal considered if it was reasonable for the eviction order to be granted. They were mindful of the decision of Lord Greene in the case of *Cummings v Dawson* (1942) 2 All ER 653 on matters to consider when determining reasonableness:

*'In considering reasonableness... it is 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, common sense way as a man of the world, and to come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or more weight, others may be decisive.'*

The Tribunal found that it was reasonable for the eviction order to be granted given that (i) Applicant needs to release the equity in the Property 33 Lochinvar Road, Greenfaulds to enable her to relocate to the USA and buy a property there and (ii) the Respondent consents to the order and has applied for alternative housing.

7.3 The Tribunal granted the eviction.

## **8. 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.**

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**Legal Member**

Jacqui Taylor

**11<sup>th</sup> May 2026**