



First-tier Tribunal for Scotland (Housing and Property Chamber)

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

Reference number: FTS/HPC/EV/25/5220

Re: Property at 37 Rannas Place, Portessie, AB56 1SQ (“the Property”)

The Parties:

Mr Richard Smith, Mrs Rosella Smith, 27 Rannas Place, Portessie, AB56 1SQ (“the Applicant”)

Miss Paige Hamilton, 37 Rannas Place, Portessie, AB56 1SQ (“the Respondent”)

Members: Robert MacDonald (Legal Member) and Mrs Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of paragraph 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) are met in this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act. In terms of section 54(1) of the 2016 Act, the private residential tenancy between the parties will end on 29th June 2026.

Background

1. By application to the tribunal dated 3 December 2025 the Applicant sought an eviction order against the Respondent in respect of the property under rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber rules of procedure 2017 (“the rules”) and section 51 of the 2016 Act. In this case the applicant relied upon Ground 1 of Schedule 3 of the 2016 Act. In support of the application, the applicant provided the following documentation:-

- i) An unsigned copy of a lease agreement between the parties commencing 28th June 2022;

- ii) A notice to leave dated 29th August 2025 which provided that proceedings would not be raised before 27 November 2025, together with proof of service by sheriff officers on the Respondent;
 - iii) A section 11 notice to Moray Council together with proof of sending the notice to Moray Council by email;
 - iv) A copy letter from Stewart and Watson Solicitors and Estate Agents dated 18 August 2025 advising that they had been contacted by the applicants in connection with the marketing of the property;
2. The application was referred to a Case Management Discussion (“CMD”) on 30 April 2026. Notification of the CMD together with a copy of the application was served upon the Respondent by sheriff officers on 17 March 2026.
3. Both parties were invited to make written representations in advance of the CMD.
4. The CMD took place on 30 April 2026 by teleconference. Mrs Gillian McCluskey of Stuart and Watson Solicitors represented the Applicant. The Applicants themselves were not present. The Respondent was present on the teleconference and represented herself.
5. Mrs McCluskey advised the tribunal that the Applicants sought an order for eviction. The Respondent had been resident in the property since June 2022. The tenancy was a private residential tenancy. She was the only occupier of the property. The Applicants live next door to the subjects. They were both in the 70s and both suffered from ill health. A notice to leave dated 29 August 2025 had been served by Sheriff Officers on 1 September 2025 and a section 11 notice had been intimated to Moray Council by email on 3 December 2025. The Applicants now required to sell the property for financial reasons. Their intention was to sell the property as soon as possible and to use the funds generated for retirement purposes. They had found dealing with the rented property stressful. The police had been called out on at least one occasion to the property. Stuart and Watson were prepared to deal with the estate agency in relation to the property. Mrs McCluskey acknowledged that the Respondent had some health issues. The rent payable by the Respondent was £100 per week, and there were currently £1200 of rent arrears which had accumulated since notice had been given to the Respondent.
6. The Respondent explained that she was 49 years of age. She currently lived alone in the property. It had originally been rented out as a shared property, and there had been other tenants living in it from time to time. It had four bedrooms. She explained that she had some significant health issues. She had no dependants. She was not currently working but volunteered locally. She had previously been in paid employment. Health permitting, she hoped to be able to get back into work. She currently received Universal Credit which paid

her housing costs. She was liable to pay £100 per week in rent but that included her TV license, council tax and electricity. She acknowledged that she was £1200 in arrears of rent. She expected to be able to pay £500 on the day of the CMD. She had been on Moray Councils housing list since August 2025. She understood that she was a high priority to be rehoused in social housing. She hoped to be re-housed in a one-bedroom property.

7. The tribunal adjourned to deliberate before resuming the CMD and confirming its decision.
8. Rule 17(4) of the rules provides that the Tribunal may do anything at a case management discussion, including making a decision. There was sufficient information available to the Tribunal to make a decision on reasonableness.

Findings in Fact and Law

9.
 - i. The Applicants are the owners and landlords, and the Respondent is the tenant of the property in terms of a private residential tenancy agreement which commenced on 28th June 2022.
 - ii. The Applicants have given the Respondent a notice to leave within the meaning of section 62 of the 2016 Act. The notice to leave relies on Ground 1 of Schedule 3 to the 2016 Act. The notice to leave was delivered to the Respondent on 1st September 2025.
 - iii. The Applicants have given the local authority a section 11 notice at the time they made this application.
 - iv. The Applicants are now in their 70s, suffer from poor health, and wish to sell the property to fund their retirement.
 - v. The Applicants intend 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.
 - vi. The Applicants are entitled to sell the property.
 - vii. The Respondent suffers from some health problems. A period of delay prior to eviction would assist the Respondent in organising her move from the property.
 - viii. The Respondent is on the local authority housing list and hopes to be rehoused in a one bedroomed property.
 - ix. The Respondent receives Universal Credit which includes her rental payment.

- x. As at the date of the CMD the Respondent was in arrears of rent amounting to £1200.
- xi. It is reasonable to grant an eviction order.

Reasons for Decision

- 10. Ground 1 of Schedule 3 of the 2016 Act provides that it is a ground for eviction if the landlord intends to sell the let property. The tribunal may find that the ground is made out if the landlord is entitled to sell the let property, and intends to sell it for market value or at least put it up for sale within three months of the tenants ceasing to occupy it, and the tribunal is satisfied that it is reasonable to issue an eviction order. The tribunal is satisfied the Ground 1 is established.
- 11. In considering whether it was reasonable to grant the eviction order the tribunal considered the circumstances of both parties.
- 12. The Applicants wished to sell the property to release funds for their retirement. Both are in poor health.
- 13. The Respondent has her own health issues. She is waiting to be re-housed by the local authority in a one-bedroom property. She has been on the local authority waiting list since August 2025. She wanted additional time to move but ultimately wasn't opposing the order sought.
- 14. In all the circumstances it is reasonable to grant the order sought.

Decision

- 15. An eviction order in respect of the property is granted. The order is not to be executed prior to 12 noon on 30 June 2026.
- 16. The decision of the Tribunal was unanimous.

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.

Robert MacDonald

27.5.26
