



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/26/0898

Re: 12 Fraser Place, Dysart, Fife, KY1 2XT ('the Property')

Parties:

Ronnie Klos, residing at Eden House, Main Street, Mowsley, Lutterworth, LE17 6NT ("the Applicant")

Adriana Capaldi, Bannatyne Kirkwood France & Co, Solicitors ('The Applicant's Representatives')

John Black, residing at 12 Fraser Place, Dysart, Fife, KY1 2XT ("the Respondent")

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

Tribunal Members: Jacqui Taylor (Legal Member) and Gerard Darroch (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 24th February 2026. The application states that the ground for eviction was as follows:

Landlord Intends to Sell - Ground 1 of Schedule 3 the Private Housing (Tenancies) (Scotland) Act 2016 The Applicant is the heritable proprietor of the Property and holds the landlord's interest in the tenancy agreement between the parties (the Tenancy Agreement). In terms of Section 50 of the Private Housing (Tenancies) (Scotland) Act

2016 the Applicant served a Notice to Leave providing notice of their intention to raise an application for possession of the Property. Said Notice to Leave is in force at the time of lodging this application. A copy of the Notice to Leave is produced. In terms of the Notice to Leave the Applicant has raised these proceedings for recovery of the Property under and in terms of Section 50 of the Private Housing (Tenancies) (Scotland) Act 2016 and Ground 1 of Schedule 3 of the said Act. The Applicant seeks an Eviction Order relative to the Property by virtue of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 and Ground 1 of Part 1 of Schedule 3 of the said Act in that the Applicant intends to sell the Property. In terms of Ground 1, Part 1 of Schedule 3 of the 2016 Act, the First-tier Tribunal may find that the ground applies if the landlord- (a) (b) Is entitled to sell the let property, and 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 The Applicant intends to sell the Property. Copy document tending to show the Applicant's intention is produced. The Applicant seeks an Eviction Order relative to the Property. In all these circumstances the Eviction Order sought is reasonable and accordingly should be granted.

1.3 Documents lodged with the Tribunal were:-

- The Private Residential Tenancy Agreement between the parties dated 2nd June 2018.
- Notice to Leave dated 30th September 2025 advising the Tenant that an application will not be submitted to the Tribunal for an eviction before 26th December 2025 and the eviction ground is that the Landlord intends to sell the Property within three months of the Tenant leaving.
- A copy of the Email to the Respondent dated 30th September 2025 sending him the Notice to Leave.
- A copy of the Email to Fife Council dated 24th February 2026 attaching the Section 11 Notice.
- Section 11 Notice addressed to Fife Council.
- A copy of a letter from FLS Property Sales dated 21st January 2026 confirming that they have been instructed to market the Property.

2. Notice of Acceptance.

By Notice of Acceptance by Joan Devine, Convener of the Tribunal, dated 28th April 2026, she intimated that she had decided to refer the application (which application

paperwork comprises documents received between 24th February 2026 and 25th March 2026) to a Tribunal.

3. The Respondent did not provide any written representations.

4. Case Management Discussion

This case called for a conference call Case Management Discussion (CMD) at 14.00 on 15th July 2026.

Miss Wooley, the Applicant's Representative attended the CMD. The Respondent did not attend. The Respondent had been served with a letter advising him of the CMD by William Wywalec, Sheriff Officer, on 10th June 2026. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with and continued with the CMD.

4.1 Oral Representations by the Applicant's Representative:

4.1.1 The Applicant has served Notice to Leave on the Respondent advising him that he intends to sell the Property.

4.1.2 The Applicant owns five rental properties. He has been in poor health and has decided to sell the five properties. He had a heart attack in April and this has accelerated his plans. He had a small gardening business that provided his income together with the rent he receives from his rental properties. He has been forced to give up his business and now needs to realise his capital to provide an income.

4.1.3 The Property is a four bedroom upper floor flat.

4.1.4 The Respondent has not been good at communicating with the Applicant. The last contact was on 24th December 2025 when he advised that he would not be moving out.

4.1.5 The Respondent has rent arrears of £1554.

4.1.6 If the eviction order is granted the Local Authority are obliged to assist the Respondent by providing alternative accommodation.

4.1.7 The Applicant wishes to remove himself from the rental market. If the application was refused the Applicant would be compelled to remain a landlord.

4.1.8 It is understood that the Respondent's brother may reside in the Property with the Respondent.

4.1.9 The Applicant has a mortgage over his five rental properties and it is understood that the outstanding balance amounts of £25,000.

4.1.10 It is understood that the Respondent is employed.

4.1.11 It is reasonable for the eviction order to be granted.

5. Decision

5.1 Requirements of Section 109 of the Procedure Rules.

(a) The Tribunal determined 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 determined 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 letter from FLS Property Sales dated 21st January 2026 was sufficient.

(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 30th September 2025 and advised the Tenant that an application would not be submitted to the Tribunal for an eviction order before 26th December 2025.

The commencement date of the lease was 2nd June 2018. 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 Tenant on 30th September 2025 by email. Section 4 of the tenancy agreement acknowledged that notices may be served using the email addresses detailed in the tenancy agreement. The Notice to Leave correctly gave the Tenant in excess of the 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 determined 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.

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

5.2.1 The Tribunal had a copy of the Landlord's title FFE636 and established that the Applicant is heritable proprietor of the Property and he is entitled to sell the Property.

5.2.2 The Tribunal accepted the letter from FLS Property Sales dated 21st January 2026 was sufficient.

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

5.4 The Tribunal 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.'

5.5 The Tribunal found that it was reasonable for the eviction order to be granted given the fact that the Applicant needs to sell the Property due to his health condition, the fact the Respondent has not lodged any written representations opposing the eviction application, there are rent arrears of £1554 and the Local Authority are required to rehouse the Respondent, if this is required..

5.6 The Tribunal granted the eviction.

6. 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.

Jacqui Taylor

Legal Member

15th July 2026