



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/25/5302

Re: Property at Silverfern, Glenshee Road, Braemar, Aberdeenshire, AB35 5YQ (“the Property”)

Parties:

Mr Ralph Kynoch, 17B Stonehenge Place, Lennox Head, NSW 2478, Australia (“the Applicant”)

Ms Amanda Paterson, St. Andrews Chapel House, Chapel House, Braemar, Ballater, Aberdeenshire, AB35 5WS (“the Respondent”)

Tribunal Members:

Julie McKinlay (Legal Member) and Eileen Shand (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted.

Background

1. By application dated 8 December 2025 the Applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 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 28 January 2026 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 26 June 2026, and appropriate intimation of the hearing was given to all parties.

Case Management Discussion

1. The CMD took place on 26 June 2026 via telephone case conference. The Applicant attended. The Respondent was represented by her sister, Sarah Paterson.
2. The Tribunal heard from the Applicant and the Respondent's representative.
3. The heritable proprietor of the Property is the Applicant having inherited the Property on the death of his father in 2013. It had been his parents' home. The Property is a three-bedroom bungalow. The lease to the Respondent began in 2018. The Applicant seeks recovery of possession of the Property on the basis that the Respondent is in breach of the terms of the tenancy. As the Applicant resides in Australia, he had arranged for the Property to be inspected. From 2023 there have been issues with the overall condition and maintenance of the Property identified by these inspections and by reports from neighbours. In particular the Respondent has failed to maintain the garden and failed to maintain the CO2 detectors and address mould. The grass in the garden on inspection was waist high. The Applicant received reports from a neighbour as to the poor condition of the Property.
4. The Applicant had spoken to the Respondent on a number of occasions in an effort to resolve the issues with maintenance, but nothing was done and accordingly he served the Notice to Leave.
5. In November 2025 it became apparent that the Respondent was not residing in the Property.
6. The Respondent's sister agreed with the position of the Applicant that the Property had not been properly maintained in accordance with the terms of the Lease. The Respondent has physical and mental health issues which affect her ability to maintain the property. In October 2025 the Respondent had become unwell to the extent that she required to reside with her mother. Her mother has since died. The Respondent has no right to reside in her mother's rented accommodation.
7. The Respondent wishes the order to be granted. The Respondent is neither physically or mentally able to manage the Property which is too big for her and has an extensive garden. The Respondent has been added to the homeless list with Aberdeenshire Council by virtue of the intervention of her support worker. Other councils which she has applied to for housing, such as Glasgow where the Respondent has close family require an order for eviction from the Tribunal to process the Respondent's homeless application.

Findings in Fact

8. The Applicant is the heritable proprietor of the Property.
9. The Applicant is the landlord and the Respondent the tenant in terms of the private residential tenancy entered into on 1 June 2018.

10. On 23 September 2025 the Applicant served upon the Respondent by email a notice to leave as required by the Act. The notice informed the Respondent that the Applicant wished to recover possession using the provisions of the Act.
11. A notice was served on Aberdeenshire Council by the Applicant under section 11 of the Homelessness etc (Scotland) Act 2003.
12. The Respondent is in breach of the tenancy agreement in having failed to take reasonable care of the Property.
13. The Respondent is not now able either physically or mentally to maintain a Property of this size.

Reasons for Decision

14. The Tribunal noted that the eviction was sought under and in terms of ground 11 of schedule 3 of the Act.

15. That ground is in the following terms:

“11 Breach of tenancy agreement

- (1) It is an eviction ground that the tenant has failed to comply with an obligation under the tenancy
- (2) The First-tier Tribunal may find that the ground named by the sub-paragraph (1) applies if -
 - (a) The tenant has failed to comply with a term of the tenancy and
 - (b) The Tribunal considers it to be reasonable to issue an eviction order on account of that fact

16. The parties are the landlord and tenant of the property which is a private residential tenancy under the Act. A Notice to Leave was served on the respondent indicating that the applicant intended to seek an eviction order based on ground 11.

17. The Tribunal is satisfied that the Respondent has failed to take reasonable care of the Property as required under the terms of the lease. The Tribunal have had the benefit of viewing photographs of the Property and various inspection reports which discuss the condition of the Property. The Tribunal accepts the evidence of the Applicant with which the Respondent agrees.

18. The Tribunal accept the position of the Respondent’s representative that the Respondent is not as a result of her physical and mental health now capable of maintaining a Property of this size and with extensive garden ground.

19. The Tribunal must also be satisfied that it is reasonable to grant the order. 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.

20. The Tribunal find that it is reasonable to grant the order.

21. The Applicant had made efforts following each inspection of the Property to agree with the Respondent that she will take reasonable care of the Property. The Respondent has been unable to do so. The Respondent has sought alternative accommodation with Aberdeenshire Council and with other local authorities in whose area she has close family to support her. It is within the Tribunal's knowledge that if an eviction order was granted on the basis of the ground specified the local authority would owe duties to the Respondent in terms of the Housing (Scotland) Act 1987 as a person threatened with homelessness. The current Property is no longer suitable for the Respondent.

22. In all the circumstances it is reasonable to grant the order.

23. The Tribunal exercised the power within rule 17 of the procedural rules and determined that a final order should be made at the CMD.

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.

J McKinlay

Legal Member/Chair

26th June 2026

Date