



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”)

Chamber Ref: FTS/HPC/EV/26/1375

Re: Property at Flat 1/2 204 Tantallon Road, Glasgow, G41 3LT (“the Property”)

Parties:

Mr Stephen Mackie, Mrs Claire Mackie, 105 Mossgiel Road, Glasgow, G43 2BY (“the Applicant”)

Mr Alan Anderson, Flat 1/2 204 Tantallon Road, Glasgow, G41 3LT (“the Respondent”)

Tribunal Members:

Fiona Stephen (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction should be granted but enforcement delayed for a period of four weeks.

Background

1. By application dated 25 March 2026, the Applicant seeks an Eviction Order under Section 51 (1) and Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The Applicant intends to sell the property. The Application is accompanied by a copy of the tenancy agreement and the notice to leave dated 5 December 2025 with proof of service. The relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 is also produced.
2. The Application was accepted by the Tribunal on 27 April 2026 and referred for determination by the Tribunal.

3. The Respondent was served with the papers in this case by Sheriff Officers on 13 August 2026 by letterbox conform to Execution of Service of the same date.
4. A CMD was fixed for 22 September 2026 at 2pm by teleconference call and written representations were to be lodged with the Tribunal by 29 August 2026. No written representations were lodged by that date.
5. The Respondent lodged written representations on 14 September 2026 which were sent to Tribunal members and the Applicant on 18 September 2026. The Respondent stated that the reason for the delay in lodging these was due to the fact that the email address used by Walker Love, Sheriff Officers was out of date. The Tribunal notes that the Respondent received intimation of the application by letterbox service as set out at paragraph 3 above. The Respondent asked for his representations to be received late. The Tribunal considered it to be in the interests of justice to accept the late representations in order to ensure that it had a full account of the Respondent's circumstances.
6. The Respondent submitted that he did not dispute that the Applicant intends to sell the Property but that it was not reasonable to evict. Alternatively, the Respondent submitted that if the Applicant's right to sell the Property outweighs his right to remain in the Property indefinitely, then the eviction should be delayed until July 2027.
7. The Respondent's reasons for this were:
 - (1) that it would disrupt the education of his daughter who was at a critical stage, having done well in her National 5's last year and taking Highers this year with a view to going to university. Given the current housing shortage a move away would likely force her to change schools causing disruption to her studies, mental well-being and final exam results;
 - (2) He had been actively looking for alternative accommodation within a reasonable public transport commute of his children's school. Forcing them to leave the Property would likely result in homelessness and displacement from their current community;
 - (3) He has lived in the Property for 11 years, first with his ex-wife and now as sole tenant. There have been no disputes or complaints about the tenancy and he is not in rental arrears although acknowledged he has been late with payment occasionally. He mentioned an issue with a shower causing water ingress to the flat below which, as of 14 September, had not been fixed. There was a previous issue with the shower which meant there was no shower for 6 months. He is not

objecting to the eviction out of malice but trying to protect his family's stability and his son and daughter's education at this crucial time;

(4) If the tribunal determines that the landlord's right to sell outweighs his right to remain in the property permanently then the Tribunal should delay enforcement of any eviction order until after July 2027 to allow his daughter to complete her exams without housing instability and allow him time to secure suitable housing through the local authority or private sector.

8. The Tribunal had before it:

- (i) The Application Form E;
- (ii) A Tenancy Agreement between the Applicant and Respondent dated 10 June 2019 with a commencement date of 19 June 2019;
- (iii) Confirmation from the Registers of Scotland that the Property is owned by the Applicant;
- (iv) Confirmation from the Scottish Landlord Register that the Property is registered in the name of the Applicant; and
- (v) Case Papers

Case Management Discussion

9. The Case Management Discussion (CMD) took place on 22 September 2026 at 2pm by teleconference call. Mr Mackie, first named Applicant appeared on behalf of himself and his wife. Mr Anderson appeared personally.

10. The Tribunal explained the purpose of the CMD and the powers of the Tribunal to determine matters. The Tribunal asked various questions with regard to the application.

11. Mr Mackie stated that he had only received Mr Anderson's written representations on Friday 18 September 2026. He had some documents he wanted to lodge in response. The Tribunal asked what those were. Mr Mackie said he had an up-to-date letter from the letting agents, Countrywide that set out that Mr Anderson was in arrears of rent of £4 783.00 which represented 3.5 months' rent as at today's date. Mr Anderson mentions in his written representations that he is up to date with his rent. That is exacerbating the situation for him and his wife.

12. Mr Mackie stated that he and his wife lived in the property for a number of years before they moved out in 2016, after which they rented it out. Over the past year, the rental income from the Property has gone down to almost 0 when one takes into account the mortgage rate they are paying on the Property. For the past 6 months, he and his wife have been supporting the Property and it is not financially viable for them to retain it and rent it out. It has not been a profitable venture for them for over a year. Rather than up the rent, they had reviewed the position and decided to sell and issued the Notice to Leave (on 5 December 2025).

13. The Tribunal asked what the current rent was, the original rent being £140.00. Mr Mackie said it was £1300 but he could not remember when it was increased, it had not been increased for a while. The mortgage is a Buy to Let mortgage and it more than doubled to around £850.00 per month. The letting agents fee is around £130-£150 per month (10-12%). There are other costs as well, namely Landlord's insurance, factor's fees and the costs of maintaining the certificates. Mr Mackie calculated that the additional costs, over and above the mortgage are around £100.00 per month. The time involved in dealing with the Property is not worth it and he and his wife were always going to review the position, which they have done. The Tribunal asked Mr Mackie what steps he had taken to put the Property on the market as he had not lodged an estate agency or solicitor's letter about that. Mr Mackie stated that he and his wife had expected to get the Property back in March 2026 (when the Notice to Leave expired) and, in advance of that, they had spoken to several agents. Those were Countrywide, Rettie and Quorum. When they found out that Mr Anderson had decided to stay in the flat, they put that "on ice".
14. The Tribunal asked if Mr Mackie had any other rental properties but noted this is the only rental he and his wife have. They lived in the flat for over 10 years and decided to rent it out when they moved out. Mr Mackie and his wife have two children and have a mortgage on their current property. The Tribunal asked when the arrears of rent started. Mr Mackie stated that was in March 2026. Mr Anderson has made intermittent payments but has not paid enough to clear the arrears.
15. The Tribunal asked Mr Anderson to respond to what had been said. Mr Anderson did not accept that he was over 3 months in rent arrears. He accepted that he has been paying his rent one month late, but not three months. In March 2026, Countrywide cancelled a lot of things, such as the Council tax and utilities. Mr Anderson stated that he had received no letters from Countrywide about arrears of rent, so he challenged that. He stated that he accepted he has been paying the rent one month in arrears since April 2026, but that is so he has funds to pay for a future property. Mr Anderson also stated that 15-18 months ago, he had no shower for about 6 months so he told Countrywide that he would not pay rent until that was sorted out.
16. Mr Anderson said he had been in the Property since November 2015. He has two children, a son and a daughter, and they used to go to the primary school across the road. His daughter is now in S5 and his son in S2 at a school in East Renfrewshire. He has joint custody of the children with his ex-wife. They stay with him 8/9 out of 14 days at the flat. Mr Anderson accepted everything that Mr Mackie said about his desire to sell the flat but he wants to make sure his daughter's exam year is not disrupted. She sat her National 5's last year and did very well. She is sitting her Highers this year. The Tribunal noted from Mr Anderson's written representations that his daughter hopes to go on to university to study art. Mr Anderson has been looking for accommodation in an area which has public transport to the school. His children attend a High School in Clarkston. They currently have a 15-minute walk to the bus and a

25-minute bus journey to the school. Ideally, he would like to find somewhere on that bus route. The Tribunal asked what the travel distance was from his ex-wife's house and noted it is a 25-minute walk.

17. Mr Anderson stated that his monthly rent is £1 339.00 and it was last increased in November 2024. Ideally, he would like to get alternative accommodation in the private rental market. He has been looking at Rightmove and has put himself on the housing list for East Renfrewshire Council. He has also applied to Wheatley Housing Association. Mr Anderson is self-employed and works freelance in the events industry. He works at sporting events, festivals and weddings. His financial position is tight. He said he is "getting by" and does not have a huge amount of money to put on a luxury property. The Tribunal asked if his children could stay with his ex-wife if he had to move from the Property. Mr Anderson said they could, but it would not be ideal.
18. The Tribunal asked Mr Anderson if he accepted that £1 300.00 per month was at the upper end of the private rental market. Mr Anderson accepted that was fair and that there should be a fair range of private rental properties available. Mr Anderson was asked if it would make sense to look for somewhere to buy? Mr Anderson accepted it would be cheaper to buy. Previously he and his wife had a flat which they rented out and used the rental income to rent out another property which they lived in. During Covid he was stuck in Australia. Mr Anderson has been looking in areas which he thought were the "mean point", but he cannot find anything suitable. The Property is a 4-bedroomed property for £1 300 per month. He said that what is on offer are 4/5-bedroomed properties for around £2 000.00 per month or lots of 2-bedroomed properties. He would prefer to stay in Glasgow. It's very close to East Renfrewshire where his wife stays. They stay 3 miles apart. Mr Anderson said that East Renfrewshire Council kept their social housing stock which Glasgow City Council did not. Mr Anderson and his wife got rid of their property during their divorce.
19. The Tribunal asked Mr Mackie to respond to what had been said. He said he had three points to make. First, Mr Mackie bore no ill-will towards Mr Anderson. Until he and his wife had decided to sell the Property there had been no issues with the tenancy. Mr Mackie had done a quick search on Rightmove and had found 140 properties to rent. Even if that was cut by half, that is still quite a lot of properties to consider. He had his wife do not want to continue to rent out as they are losing money. Mr Mackie has been assured by Countrywide that Mr Anderson is aware of the arrears of rent. Mr Anderson paid his rent regularly until March 2026 which coincided with expiry of the Notice to Leave. Second, Mr Mackie mentioned the bathroom issue. The Tribunal noted from Mr Anderson's written representations that he stated the Property had suffered from shower plumbing issues which had resulted in water ingress to the property below and, as of 14 September, this had not been fixed. Mr Mackie stated that he had found out about this issue from the neighbour. He had received some angry text messages from her on 6 and 30 August 2026. He wanted to keep the Property in good condition so had arranged for a plumber to go in and fix the issue within 48 hours. In the past, a

sofa had been left out in the back court for months and Mr Mackie had to arrange for a private collection of it. Mr Mackie gave Mr Anderson a rent break during Covid which Mr Anderson did pay back. Third, Mr Mackie and his wife are losing money every month and any further delay in his process makes things worse.

20. The Tribunal asked Mr Mackie what his position was on Mr Anderson's suggestion that if an eviction order were granted, he should be allowed to stay until July 2027. Mr Mackie said he and his wife could not afford any more delay so he could not agree to that. Mr Mackie is opposed to any extension because of their financial position and the way things have played out over the past 6 months.
21. Mr Anderson was given a further opportunity to respond. He said that he had just looked at Rightmove. The 140 properties referred to by Mr Mackie were Glasgow-wide. He has found one property in Clarkston and nothing suitably close to the children's school. Mr Mackie stated that his search had been within a 3-mile radius of the Property.
22. The Tribunal adjourned to discuss matters. On reconvening, the Tribunal, advised the parties that it wished time to consider its decision. It did not consider a full hearing was necessary and would issue the decision to the parties as soon as possible.

Findings in Fact

23. The Applicant let the property to the Respondent by virtue of a Private Residential Tenancy Agreement within the meaning of the Act, dated 10 June 2019 and which commenced on 19 June 2019.
24. The Property is a 4-bedroomed flat.
25. The monthly rental of the Property was £1 140.00 at commencement of the tenancy and was increased to £1 300.00 per month in November 2024.
26. The Applicant intends to sell the let property.
27. The Applicant is the owner of the property and is entitled to sell it.
28. The Applicant has competently served a notice to leave on the Respondent dated 5 December 2025 under ground 1 of Schedule 3 of the Act. The Applicant was entitled to raise the current application from 4 March 2026.
29. The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003.
30. The Applicant will instruct a suitable agent to sell the Property if an order for eviction is granted.

31. The Applicant has two children and they have a mortgage over the property in which they live.
32. The Applicant has a Buy to Let Mortgage over the Property. The mortgage payment has doubled in amount to £850.00 per month. The Applicant pays a letting agent fee of £130-£150 per month. The Applicant pays other costs including landlord's insurance, factors fees and maintenance costs of approximately £100.00 per month.
33. In late 2025, the Applicant decided that given the increased holding costs, they could not afford to keep the Property and issued the Notice to Leave to the Respondent.
34. The Respondent lives in the Property with his son and daughter who attend a secondary school in East Renfrewshire. His daughter is currently in S5 studying for her Highers.
35. The Respondent has lived in the Property since 2015, although under this tenancy agreement, since 2019.
36. The Respondent's former wife lives in East Renfrewshire.
37. The Respondent and his former wife have joint custody of the children and the children live with each of them although spend 8/9 days out of 14 with the Respondent.
38. The children's school is a 15-minute walk and 25-minute bus journey from the Property and a 25-minute walk from their mother's property.
39. The Respondent is self-employed and works freelance in the events industry.
40. The Applicant claims the Respondent is in rent arrears of 3.5 months which the Respondent disputes.
41. The Respondent accepts that, since March 2026, he has had paid his rent one month in arrears as he wished to have some extra money to pay for a future property.
42. The Respondent has been looking for alternative accommodation in the private rental sector, so far without success. Ideally, he would like the accommodation to lie on the same bus route to his children's school.
43. The Respondent has approached Wheatley Housing Association and East Renfrewshire Council for alternative accommodation, so far without success.

Findings in Fact and Law

44. It is reasonable to grant an order for possession of the Property.

45. It is reasonable to grant an extension to the enforcement of the order for possession.

Reasons for Decision

46. The Tribunal was satisfied that it could determine matters at the CMD and without a Hearing in terms of Rules 17 and 18 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the procedure rules”).

47. In terms of section 51(1) of the Act, the Tribunal is to issue an eviction order against the tenant of a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies. The Applicant relies on ground 1 of Schedule 3 of the Act in the present case.

48. Ground 1 of Schedule 3 provides:

“1 Landlord intends to sell

(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.”

49. Sub-paragraph 2 (c) of ground 1 was added by section 43 (3)(a)(iii) of the Coronavirus (Recovery and Reform) (Scotland) 2022. As originally enacted, ground 1 was mandatory so if the Landlord established that they were entitled to sell the property and intended to sell it, the Tribunal was required to issue an eviction order.
50. The amendments introduced by the 2020 and 2022 Acts have the effect of introducing an element of discretion into ground 1. Establishing the facts in sub paragraphs 2 (a) and (b) is sufficient to make it *prima facie* reasonable to evict. It is then for the tenant to put circumstances to the Tribunal to show otherwise. This may include their personal circumstances, the reason why the eviction ground has come to exist, the length and conduct of the tenancy generally and any hardship if the eviction were to be granted. In any event, just because the landlord's wish for possession is reasonable, this does not mean that it will be reasonable to grant it (see *Manson v Turner* 2023 UT 328 @ para 7).
51. Evidence of intention can, by way of example, include a letter of engagement from a solicitor or estate agent concerning the sale of the let property (as set out in ground 1 (3)).
52. Having made the above findings in fact, the Tribunal considered that the Applicant has established that they intend to sell the let property and that they are entitled to do so in terms of ground 1 (2) (a) and (b) of Schedule 3 of the Act.
53. The Tribunal considered whether it is reasonable to issue an eviction order in terms of ground 1 (2) (c). In doing so, the Tribunal must consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the Tribunal to grant the order or decline to grant the order will be relevant. This is confirmed by one of the leading English cases, *Cumming v Danson* [1942] 2 All ER 653 at 655 in which Lord Green MR said in an often quoted passage:

"In considering reasonableness...it is, in 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 come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account."

54. Further, in *Manson @ para 41* when discussing the assessment of reasonableness, the Upper Tribunal stated that the Tribunal must “objectively balance the rights and interest of both parties”. At *para 42*, the Upper Tribunal set out that where the landlord and tenant put evidence before the Tribunal in an attempt to establish facts relevant to reasonableness, the first task is to assess that evidence and make clear findings in fact. It must then weigh and balance all the relevant facts found which bear on reasonableness, including the facts set out in Ground 1 2(a) and (b) of Schedule 3 of the Act.

55. The Tribunal accepted that the Applicant owns and intends to sell the Property as soon as possible and noted the reasons why i.e. due to the financial strain that holding the Property is causing them. The cost of the Buy to Let mortgage has risen sharply and, together with the other costs they have to meet, particularly over the past 6 months, it is no longer financially viable to keep the flat. The Applicant has two children and a mortgage and other costs in relation to the property which they currently live in. The Property is a 4-bedroomed flat. There seems no reason why the Respondent cannot consider a smaller property to move to which can accommodate him and his two children. The Tribunal accepted that the Applicant will instruct estate agents to sell the Property and had taken steps to appoint an estate agent earlier in the year, which was put on ice when it became clear the Respondent was not going to move out. That is reasonable. The Tribunal noted that the Applicant stated that the Respondent is in rent arrears of around 3.5 months and could have produced a letter from Countrywide confirming this. This was disputed by the Respondent. However, what was not disputed was that the Respondent himself stated that he has been paying his rent one month in arrears since March 2026 (when the Notice to Leave became live) so that he has funds to pay for a future property. The Tribunal considered that relevant and accepted that this is contributing to the financial strain of the Applicant.

56. The Tribunal accepted that the Respondent has lived in the Property for eleven years (both with his now ex-wife and as sole tenant) and that he wishes to avoid disruption to his children’s schooling, particularly in an important year for his daughter. It noted his difficulties in finding alternative accommodation. The Tribunal had the opportunity to consider the Respondent’s written and oral submissions. It accepted the written submissions late. The Tribunal noted that the Respondent did not set out his personal circumstances in full in his written representations. He said nothing about sharing joint custody of the children with his ex-wife or the fact that they also stay with his ex-wife and walk to school from her home, which takes less time than from the Property. The Respondent did not dispute that his children could stay with his ex-wife more if absolutely necessary. He said this was not ideal but did not elaborate why. On that basis the Tribunal does not accept the

Respondent's contention that if an eviction order is granted, the children will likely have to change school or will be made homeless. The Respondent accepts that they can stay with his ex-wife if absolutely necessary, which means that the children will not be made homeless or have to change school. The Tribunal understands that if an eviction order is granted, then this will result in some disruption to the Respondent and his children for a period of time. However, the Tribunal does not accept that this will be "catastrophic" as the Respondent claims. The Respondent is continuing to look for alternative accommodation and given he is able to consider the private rental market, in light of the rent he is currently paying, as well as the public sector it is to be hoped that he will find suitable accommodation. The Tribunal also noted that the Respondent had not been candid in his written representations about paying his rent one month in arrears.

57. The Tribunal considers that, objectively, it is reasonable for the Applicant to be able to sell the Property. In addition to determining that the Applicant has satisfied the requirements of Ground 1 (1) and (2) (a) and (b) of Schedule 3, the Tribunal considers that it is reasonable to make an eviction order in terms of ground 1 (2) (c) for the reasons stated above.

58. The Respondent stated that if the Tribunal were to consider granting an eviction order then this should be postponed until after the end of July 2027 on account of his daughter's exams. The Applicant opposed any postponement of an eviction order on the basis that this will continue the financial strain that they are under. Given that the Tribunal has concluded that the Respondent's children will not be made homeless or have to change school if an eviction order were granted, it does not consider that it would be reasonable or appropriate to postpone the eviction order by a further 10 months. However, the Tribunal does consider that it would be reasonable to postpone enforcement of the order for a short period to enable the Respondent some further time to find alternative accommodation and put necessary arrangements in place for his children. The Tribunal is therefore prepared to postpone enforcement of the order for period of 4 weeks in terms of Rule 16A (d) of the Rules.

Decision

The Tribunal makes an order for eviction of the Respondent, Mr Alan Anderson from the Property at Flat 1/2, 204 Tantallon Road, Glasgow G41 3LT but delays enforcement of that order by 4 weeks in terms of Rule 16A (d) of the Rules.

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.

Fiona Stephen

Legal Member/Chair

29 September 2026

Date