



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

Chamber Ref: FTS/HPC/EV/25/4005

Re: Property at 101 Crindledyke Crescent, Wishaw, ML2 9NQ (“the Property”)

Parties:

Mrs Hong Tanth Thi Tran, 2 Longsight Road, Manchester, M18 7RA (“the Applicant”)

Mr John Christie, 101 Crindledyke Crescent, Wishaw, ML2 9NQ (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mr G Darroch (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. This is an application for an eviction order made under ground 5. The Applicant representative lodged a copy of a private residential tenancy agreement between the parties commencing on 1st December 2022, a notice to leave with evidence of service, evidence to support the ground of eviction, and a section 11 notice with evidence of service.
2. Notification of the application and Case Management Discussion was made upon the Respondent by Sheriff Officer on 26th February 2026.

The Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by telephone conference on 15th April 2026. Neither party was in attendance. The Applicant was represented by Mr Gallagher, Solicitor. The start of the CMD was delayed to allow the Respondent to join the call. The Respondent did not join the call.

4. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied in respect of the Respondents. The Tribunal considered it was appropriate to proceed with the application in the absence of the Respondent.
5. Mr Gallagher confirmed there had been no recent contact from the Respondent. Mr Gallagher's firm was contacted by the local authority housing department about four weeks ago, requesting confirmation of information. The Respondent made a payment to the Applicant towards arrears in March 2026.
6. Mr Gallagher said the Applicant was seeking an eviction order under Ground 5. The Applicant's daughter intends to reside in the Property. Notice to leave has been served, and a section 11 notice has been served upon the local authority. A previous notice to leave was served in an incorrect format. The Respondent has been aware for a significant period that the Applicant was seeking vacant possession. The Applicant has been advised that the Respondent is seeking alternative accommodation.
7. Mr Gallagher said rent payments have been inconsistent since the notice to leave was served, with no rent paid in August, November and December 2025, and January and February 2026. Mr Gallagher was not aware of the current outstanding sum of arrears.
8. Responding to questions from the Tribunal regarding the lack of any statement or affidavit from the family member, and whether a statement from the Applicant provided the requisite evidence to show that the ground was met, Mr Gallagher said the Applicant's statement had been taken with the assistance of the Applicant's daughter, who intends to reside in the Property. Mr Gallagher had discussed the eviction grounds with the Applicant and her daughter, and they had confirmed that the daughter wishes to live in the Property. Mr Gallagher said the daughter wishes to have a fresh start following the passing of her father, who was a joint owner of the Property.
9. Responding to questions from the Tribunal, Mr Gallagher said the Respondent lives in the Property with his wife. There are no children believed to be residing in the Property. The Respondent is presumed to be in employment as he is no longer in receipt of Housing Benefit. Mr Gallagher was not aware of any health or social issues in respect of the Respondent, of which the Tribunal should be aware.

Findings in Fact and Law

10.
 - (i) Parties entered into a private residential tenancy agreement in respect of the Property on 1st December 2022.
 - (ii) A qualifying member of the Applicant's family intends to live in the let property.

- (iii) A qualifying member of the Applicant's family intends to occupy the let property as their only or principal home for at least 3 months.
- (iv) The Applicant has served notice to leave upon the Respondent.
- (v) It is reasonable to grant an eviction order.

Reasons for Decision

11. Ground 5 of Schedule 3 of the 2016 Act provides that it is an eviction ground that a member of the landlord's family intends to live in the let property. The Tribunal may find that the ground applies if a qualifying member of the landlord's family intends to occupy the let property as that person's only or principal home for at least 3 months.
12. The Tribunal is satisfied that Ground 5 has been established, in that the Applicant's daughter intends to occupy the Property as her only or principal home for at least 3 months.
13. The Tribunal is satisfied that the necessary notice to leave has been correctly issued to the Respondent in terms of the Act.
14. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties. The Applicant's daughter wishes to have a fresh start and wishes to occupy the Property. The Respondent did not attend the CMD or put forward any representations to assist the Tribunal in considering the impact of an eviction order upon him or his family. The Tribunal noted that the local authority has been in touch with Mr Gallagher, which may suggest the Respondent is seeking social housing.
15. In all the circumstances, the Tribunal considered that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicant. It was incumbent upon the Respondent to attend or make representations to the Tribunal to indicate why an order should not be granted, and the Respondent failed to do so. The Tribunal considered it was reasonable to grant the order sought.

Decision

16. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 18th May 2026.

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.

Ms H Forbes

Legal Member/Chair

15th April 2026
Date