



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/24/5881

Re: Property at 72 Elders Crescent, Glasgow, G72 7GL (“the Property”)

Parties:

Mr Tariq Mahmood, 28 Whitelee Crescent, Glasgow, G77 6UH (“the Applicant”)

Miss Lynne Bryson, 72 Elders Crescent, Glasgow, G72 7GL (“the Respondent”)

Tribunal Members:

Lindsay Paterson (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a member of the landlord’s family intends to live in the property as their only or principal home for at least three months and it is reasonable to grant an eviction order against the Respondent on account of that fact.

Background

1. By application dated 23 December 2024 the Applicant seeks an order under section 51 to evict the Respondent on the basis of ground 5 of schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016, namely that a member of the landlord’s family intends to live in the let property.
2. The case called for a case management discussion (“CMD”) on 31 July 2025, along with the conjoined application FTS/HPC/CV/25/0563, which is an action seeking an order for payment of alleged rent arrears involving the same parties. The CMD was heard by a differently constituted tribunal. The Tribunal hearing the CMD decided it was necessary to have a hearing in terms of Rule 24 because both the applications for the eviction order and the payment order appeared to be opposed, many facts were disputed and there

was some suggestion that the Respondent might be moving to another property.

3. The case called for an in person hearing in terms of Rule 24 at the Tribunals Centre in Glasgow on 14 July 2026. It called along with application FTS/HPC/CV/25/0563.
4. The Applicant and his legal representative, Ms Anderson, attended along with a trainee solicitor from Ms Anderson's firm, Ms Newberry, and the Applicant's daughter, Amna Mahmood, who the Applicant intended to call as a witness.
5. The Respondent failed to attend the hearing and was not represented. The tribunal clerk called the Respondent on the telephone. The Respondent advised the tribunal clerk that she had thought the tribunal hearing was on 24 July. The Respondent advised the tribunal clerk that she was not in Glasgow and was in meetings until 3pm so she was unable to attend the hearing either in person, or remotely. The Respondent advised the tribunal clerk that she intends to move out of the property but still wishes to oppose the action.
6. The Tribunal advised the Applicant and Ms Anderson of the reason provided for the Respondent's non-attendance and invited submissions on whether the tribunal should hear the case in the Respondent's absence or adjourn to another date.
7. Having considered submissions from Ms Anderson that the hearing should proceed in the absence of the Respondent, the Tribunal considered on balance, taking into account the overriding objective, it would not be just to proceed in the Respondent's absence and decided to adjourn the hearing to 10.30am on 07 August 2026.
8. The Respondent was telephoned by the Tribunal clerk later in the afternoon of 14 July and advised that the hearing had been adjourned to 07 August 2026.
9. Following the hearing on 14 July both parties were sent a note of the hearing.
10. Parties were notified of the hearing on 07 August by email on 24 July 2026

Summary of Hearing

11. The case called for the hearing on 07 August 2026 at 10.30am at Glasgow Tribunal Centre.
12. The Applicant, Ms Anderson, and Ms Newberry all attended the hearing.
13. The Respondent failed to attend the hearing.
14. The Tribunal was satisfied the Respondent had been given proper notice of the hearing in terms of Rule 24(1). Furthermore, the Tribunal was aware the Respondent had been notified of the hearing date by a telephone call from the Tribunal clerk on 14 July 2026 and by email on 24 July 2026. The Tribunal was aware that the Tribunal clerk had stressed the importance of attending the hearing to the Respondent when speaking to her and the Respondent had told the Tribunal clerk the date should be fine. The Tribunal clerk had told the Respondent on 14 July 2026 that should she find herself unable to attend the hearing on 07 August for any reason she would require to contact the Tribunal urgently. The Respondent made no contact with the Tribunal prior to the hearing. On this basis, the Tribunal considered it appropriate, taking into account the overriding objective, to proceed in the absence of the Respondent in terms of Rule 29.

15. The Tribunal accepted the terms of the Private Residential Tenancy agreement ("PRT") lodged with the application by the Applicant were agreed by the parties.
16. The Tribunal accepted the rent statement provided by the Applicant as proof of the rent charged and payments made.
17. The Tribunal accepted the evidence lodged by both parties in the form of text messages and WhatsApp messages sent between them and did not require the Applicant to provide any further evidence on this.
18. The Tribunal asked that the Applicant provide evidence on the issue of reasonableness.
19. The Applicant gave oral evidence in which he adopted his affidavits of 10 February 2025 and 19 May 2026 and further stated that ever since his daughter, Amna, decided she wanted to go to university she had expressed a desire to live more independently. Amna was born in the Property, it was her first home. She has an uncle who lives two streets away from the Property. The Applicant and Amna first discussed her moving into the Property when she was 17. She is now 19. The Applicant stated that he pays over £500 per month on the mortgage on the Property as well as other maintenance costs. He told the Tribunal that until recently he also paid over £80 per month for insurance on the boiler but cancelled this as he can no longer afford it. He has no other rental properties. The Applicant told the Tribunal he has two other children, the youngest is aged 4. The Applicant stated he was experiencing financial strain due to not receiving any rental income from the property for over two year, and was visibly upset when explaining to the Tribunal how this had impacted him and his family. The Applicant told the Tribunal he had received a call from the local authority regarding overgrown grass at the back of the property and issues with rats. Photos were taken of the bin area which the Applicant stated showed the bins were not being used. The Applicant also told the Tribunal he has been told by neighbouring residents that they have not seen the Respondent since August 2025. The Applicant further stated that the local authority had been in touch with him in respect of unpaid council tax at the Property. When he explained that the Respondent was living in the Property and liable for council tax the local authority told him the Respondent had registered as liable to pay council tax at another address in the local authority area. The Applicant went on to tell the Tribunal the Respondent has told him on three occasions that she has left the property but still has her belongings in it. The Applicant told the Tribunal the Applicant has explicitly told him not to enter the Property. The Applicant referred to emails lodged with the Tribunal date 25 November 2025, 09 February 2026, 29 March 2026 and 01 May 2026. These emails all suggested the Respondent intended to move her belongings from the Property and return the keys. The Applicant stated that despite these emails the Respondent has not returned the keys. He considers the tenancy is still running and the only way to obtain vacant possession is to obtain an eviction order. As the Respondent has told the Applicant not to enter the Property the Applicant has not been in the property for some time and is concerned about the condition and security of the property.
20. The Tribunal noted the reference in the Respondent's email of 09 February 2026 to mental health issues and asked the Applicant if he has any more information on that. The Applicant advised the Tribunal that he did not and

that he had not heard anything else about it from the Respondent since the email.

21. The Tribunal asked the Applicant what he knew about who was living in the property. The Applicant told the Tribunal that when the property was originally let to the Respondent she had two children who were aged around 10 and 12 at that time. The Respondent's daughter later had a baby of her own but the last the Applicant heard the Respondent's daughter had moved into her boyfriend's family home along with the baby. The Applicant told the Tribunal he wasn't able to confirm with certainty who had been living in the house due to lack of access.
22. The Applicant's daughter, Amna Mahmood, gave oral evidence in which she adopted her affidavit of 20 May 2026 and further stated that she is about to start her second year of university and is due to graduate in 2029. She currently lives with her parents and younger siblings who are both considerably younger than her: one is in nursery and the other in primary school. Amna told the Tribunal that now she is at university it feels like time for her to have her own separate space and it had always been her intention to move out of the family home when she went to university. Amna told the Tribunal she takes the bus to university and it currently takes her an hour and 15 minutes, she cannot stay out late and had less freedom. Amna told the Tribunal the bus from the property to the university only takes half an hour and it would be her own decision when to come home. Living in the property would, in her view, mean less travel and would improve her university experience. Amna told the Tribunal that she would plan to live in the Property alone and to pay a little bit of rent although the amount has not been agreed. She currently works part time in a library, and her job is closer to where she currently lives. However, she would be able to drive to work from the property and, in her view, it would be better to have a shorter daily commute to university and one longer journey per week than the other way around.
23. In her closing submissions Ms Anderson invited the Tribunal to grant an order of eviction against the Respondent on the basis that ground 5 had been established, it was reasonable to evict and that an order was necessary as the Respondent had not been willing to provide vacant possession despite saying on several occasions that she intended to return the keys.
24. Ms Anderson also sought an award of expenses against the Respondent in terms of Rule 40 on the basis that the Respondent's failure to engage adequately in the process amounted to unreasonable conduct. The Respondent failed to reply to directions from the Tribunal, failed to attend the hearing on the date originally assigned and failed to give an adequate reason. The Applicant had to rearrange a trip abroad in order to attend the original hearing. Ms Anderson submitted that the Respondent's conduct had been incompatible with the Tribunal's overriding objective to deal with proceedings justly.

Findings in Fact

25. The Applicant is the owner and landlord of the property.
26. The Respondent is the tenant of the property.
27. Parties entered into PRT on 18 June 2018.
28. The rent due under the PRT is £650 per month.

29. The Applicant has costs of over £500 per month related to the property.
30. The Property is the only rental property the applicant has.
31. The Respondent has failed to pay rent since 19 July 2024.
32. The Applicant is experiencing financial difficulty due to the lack of rental income from the property.
33. The Applicant cannot afford to pay for university accommodation for his daughter, Amna.
34. Amna wishes to live independently rather than at home with her parents and younger siblings.
35. Amna grew up in the property and would like to live there independently while she is a student. She had hoped to move into the property when she started her university course last year, but this was not possible. She now intends, if an order is granted to move in for the start of her second year. She is willing to make payments to the Applicant to help with the running costs of the property although the amount she will pay is yet to be agreed.
36. Living in the property would reduce Amna's commute to university by 45 minutes.
37. The Respondent has advised she intends to vacate the property but has failed to move out.
38. The local authority has told the Applicant the Respondent is registered to pay council tax at another address in the local authority.
39. Neighbours have reported to the Applicant the property appears unoccupied, and the bins are not being taken out.
40. The Applicant issued the Respondent with a valid notice to leave dated 27 September 2024.
41. The Applicant sent a s11 notice to the local authority on 23 December 2024.

Reasons for Decision

42. The application to the Tribunal was made after the expiry of the notice period given in the notice to leave. The Tribunal was satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice which was sent to the Local Authority. The Tribunal was therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
43. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies".
44. The ground for eviction under which this application was made is the ground contained within paragraph 5 of schedule 3 of the 2016 Act. The ground is that a member of the landlord's family intends to live in the property as their only or principal home for at least three months and it is reasonable to grant an eviction order on account of that fact.
45. The Tribunal was satisfied that Amna Mahmood, the Applicant's daughter, and thus a qualifying relative in terms of paragraphs 5(4)(b) and 5(5)(b) of schedule 3 of the 2016 Act, intends to live in the Property as her only home for at least three months.
46. The Tribunal then turned to consider if it was reasonable to grant an 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.

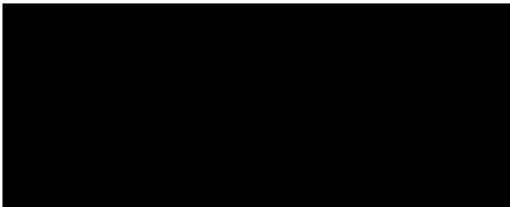
47. In this case the Tribunal finds that it is reasonable to grant the order. The balance of reasonableness in this case is weighted towards the landlord in this application for the reasons set out in paragraphs 48 and 49 below.
48. The Tribunal was mindful that when considering whether or not it was reasonable to grant an order for eviction that it required to consider whether or not it was reasonable on account of the fact that Amna Mahmood intends to live in the property. Despite finding in the conjoined action FTS/HPC/CV/25/0563, which called at the same time as this application, that the Respondent owed £16 830 of rent arrears, the Tribunal restricted its consideration of reasonableness to the ground that Amna intends to live in the Property rather than considering the level of arrears as a factor in reasonableness. However, the Tribunal did consider the level of arrears was relevant to ground 5 to the extent that it accepted the Applicant's evidence that the lack of rental income from the property meant the family could not afford accommodation for Amna elsewhere.
49. The Tribunal considered the fact the Respondent has secured alternative accommodation and intends to move out of the property relevant factors in determining reasonableness. Had it been the case the Respondent would have been made homeless if an eviction order was granted, based on ground 5, the Tribunal may not have considered it reasonable to grant an order as while the Tribunal accepted Amna's preference to live in the property over the family home, Amna would not be homeless if an order was not granted. However, in circumstances where the Respondent has secured alternative accommodation but delays in leaving the property, in the absence of any reason for that delay, the Tribunal considered that it was both necessary and reasonable to grant an eviction order.
50. Given the Respondent's failure to provide any information on when she intends to remove the last of her belongings from the property the Tribunal decided a 30-day period before the eviction order could be enforced was reasonable.
51. The Tribunal accepted that the Applicant had found the tribunal process lengthy and worrying. However, the Tribunal noted that the only delay which was attributable to any conduct of the Respondent's was the less than four-week period between the adjourned hearing on 14 July 2026 and the hearing on 07 August 2026. The Tribunal did not consider the Respondent's non-attendance at the hearing on 14 July 2026 or her failure to respond to the directions of 28 April 2026 and 16 July 2026 to meet the threshold of unreasonable behaviour affecting the conduct of a case in terms of Rule 40. As such the Tribunal refused the Applicant's request for an order of expenses.

Decision

52. The Tribunal decided to grant an eviction order in favour of the Applicant against the Respondent. The Tribunal refused to grant an order of expenses against the Respondent.

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.



Legal Member/Chair

Date: 07 August 2026