

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 33 of the Housing (Scotland) Act 1988**

**Chamber Ref: FTS/HPC/EV/23/3685**

**Re: Property at Flat 1/1, 3 St. Andrews Close, Glasgow, G41 1QG (“the Property”)**

**Parties:**

**Mr Iftikhar Ahmed, 37 Royal Gardens, Bothwell, Glasgow, G71 8SY (“the Applicant”),  
and**

**Ritehome, Ground Floor, 350 Glasgow Harbour Terraces, Glasgow G11 6EG  
 (“the Applicant’s Representative”) and**

**Miss Bhenjatar Kaur, residing at Flat 1/1, 3 St Andrews Close, Glasgow, G41  
1QG (“the Respondent”)**

**Tribunal Members:**

**G McWilliams- Legal Member  
F Wood - Ordinary Member**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determines as follows:**

**Background**

1. This is an Application brought in terms of Rule 66 (Application for order for possession upon termination of a short-assured tenancy) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure (“the 2017 Rules”).
2. The Applicant Mr Ahmed’s Representative had provided the Tribunal, in the Application, with copies of the parties’ short assured tenancy agreement, Form

AT5, Notice to Quit (“NTQ”) and Sections 33 and 11 Notices with relevant Executions of Service. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the Housing (Scotland) Act 1988 (“the 1988 Act”), and the procedures set out in the Act had been correctly followed and applied.

### **Case Management Discussion on 1<sup>st</sup> February 2024**

3. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 2.00pm on 1<sup>st</sup> February 2024. The Applicant’s Representative’s Mr R. Nixon attended. Mrs L.K. Singh, sister in law of the Respondent Miss Kaur attended as her Representative. Mrs Singh had sent an e-mail to the Tribunal’s Office, through her daughter Miss Seatel Kaur’s e-mail account, on Friday 26<sup>th</sup> January 2024, confirming that she would represent Miss Bhenjatar Kaur in respect of the Application.
4. Mr Nixon stated that he and Mr Ahmed have sympathy in respect of Miss Kaur’s situation. He stated that Miss Kaur’s rent payments were up to date. He said, however, that following interest rate rises 2 years ago the shortfall between the rental income received and Mr Ahmed’s monthly outgoings in respect of the Property is almost £450.00, as stated in written representations which Mr Ahmed had lodge with the Tribunal prior to the CMD. Mr Nixon stated that the ongoing loss was unsustainable for Mr Ahmed Mr Nixon said that Mr Ahmed wishes the best for Miss Kaur but cannot carry on with such a loss of income and requires to recover possession of the Property in order to sell it.
5. Mrs Singh stated that her sister in law Miss Kaur is 58 years old and is a vulnerable person with learning difficulties. She said that Miss Kaur and her family require some time to obtain suitable, secure social housing for Miss Kaur. Mrs Singh said that Miss Kaur has always lived in private rented accommodation but has now been applying to various housing associations, most recently Wheatley Group, and Glasgow City Council Homelessness Services (“GCCHS”), for assistance in obtaining another tenancy. She stated that she and Miss Kaur have also contacted Glasgow City Council Social Work Services (“GCCSWS”). Mrs Singh said that GCCHS had advised that the NTQ was not enforceable without Court proceedings. Mrs Singh stated that she and Miss Kaur have also consulted Castlemilk Law Centre (“CLC”) but due to short notice of the CMD, following a gap in their communications with CLC whilst Mrs Singh was in hospital, CLC were not able to represent Miss Kaur today. She also said that the various agencies had informed her and Miss Kaur that they must await the outcome of the CMD before they can progress Miss Kaur’s housing applications. Mrs Singh acknowledged that many housing agencies now only prioritise housing applications after eviction orders have been granted. Mrs Singh stated that Miss Kaur does not have any physical disabilities and can live on her own with support from family. She stated that the Property is a first floor flat and that Miss Kaur does not require adapted accommodation Mrs Singh said that as she has been in poor health herself recently her family are hopeful that Miss Kaur obtains social housing with support from GCCSWS as soon as possible. Mrs Singh said that Miss Kaur and her family also have sympathy with Mr Ahmed’s position. She further acknowledged that if an eviction order were to be granted it could not be enforced until 1<sup>st</sup> April 2024

assuming that the current law governing enforcement of such orders is not reinstated after 31<sup>st</sup> March 2024.

### **Statement of Reasons**

6. In terms of Section 33 of the 1988 Act, the Tribunal shall make an order for possession of a house let on a tenancy if:
  - (a) the short assured tenancy has reached its end;
  - (b) tacit relocation is not operating;
  - (c) no further contractual tenancy (whether a short assured tenancy or not) is for the time being in existence; and
  - (d) the landlord has given to the tenant notice stating that he requires possession of the house.
7. The Tribunal considered and weighed the available evidence and the submissions of Mr Nixon and Mrs Singh. The Tribunal found in fact that all of documentation regarding termination of the tenancy had been validly served on Miss Kaur. The Tribunal further found in fact that the granting of an eviction order will assist both Mr Ahmed, in enabling him to plan the sale of the Property, and to stop his losses in this regard, and also allowing Miss Kaur, and her family to progress her applications for alternative social housing. The Tribunal further found in fact that an eviction order will not be capable of being enforced before 1<sup>st</sup> April 2024 at the earliest. These facts were agreed by Mr Nixon and Mrs Singh. Having made such findings in fact the Tribunal found in law that it is reasonable to grant an eviction order at this time.
8. Mrs Singh stated that she and Miss Kaur have been contacting various agencies who can provide assistance to Miss Kaur regarding her housing applications and independent living. The Tribunal encourage them to again contact the various agencies, including GCCHS, GCCSWS and CLC and show them this Decision and the accompanying formal Eviction Order, to obtain the necessary help for Miss Kaur going forward.
9. The Tribunal commend Mr Nixon and Mrs Singh for their straightforward submissions at the CMD and their exchange of warm wishes.

### **Decision**

10. The Tribunal makes an order for possession of the Property as sought in this Application.

### **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.

**G McWilliams**

**1<sup>st</sup> February 2024**

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**Legal Member**

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**Date**