

**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 51 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/24/2038**

**Re: Property at 18 Dalwhinnie Court, Irvine, KA11 2ES (“the Property”)**

**Parties:**

**Mr Iqbal Singh, 25 Lyal Gardens, Irvine, KA11 4DR (“the Applicant”)**

**Miss Susan Margaret Hendry, 18 Dalwhinnie Court, Irvine, KA11 2ES (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (Legal Member) and Ann Moore (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 be granted against the respondent**

**Introduction**

This is an application under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The application seeks an eviction order.

Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the respondent by Sheriff Officers on 15 November 2024.

The respondent emailed the tribunal on 3 December 2024 to advise that she had been allocated a tenancy from North Ayrshire Council and that whilst she was awaiting an entry date did not believe that she would remain in the let property by the date of the CMD.

The CMD took place by teleconference on 19 December 2024 at 2.00 pm. The applicant was represented by Mr Colin Duck of McKinstry Company Solicitors. The respondent failed to participate in the hearing.

### Findings and Reasons

The property is 18 Dalwhinnie Court, Irvine KA11 2ES. The applicant is Mr Iqbal Singh who is the heritable proprietor of the property and the registered landlord. The respondent is Miss Susan Hendry who is the tenant.

The parties entered into a private residential tenancy in respect of the property which commenced on 8 May 2004. The rent was stipulated at £800 per month.

The applicant relies upon grounds 4, 5 and 14 contained within schedule 3 to the 2016 Act. Ground 4 stipulates that it is an eviction ground that the landlord intends to live in the let property. Ground 5 stipulates that it is an eviction ground that a member of the landlord's family intends to live in the let property. Ground 14 stipulates that it is an eviction ground that the tenants engaged in relevant acts of unsocial behaviour.

The relevant notice period at that time the Notice to Leave was served was one of 28 days for all grounds as the respondent had lived in the property for less than 6 months at the date of service of the Notice to Leave.

The Notice to Leave is dated 7 November 2023 stipulates that the earliest application in respect of the tribunal would be 31 January 2024.

The Notice to Leave was served personally upon the respondent by the applicant's daughter, Miss Harjit Kaur, and she has produced an affidavit executed on 10 July 2024 confirming that he gave the respondent the Notice of 7 November 2023, the day that it is dated. This is unchallenged and accepted.

The applicant, Mr Iqbal Singh, and his wife, Mrs Jaspir Kaur, currently live with their son, Mr Gurjit Singh at an alternative address in Irvine. This son has provided a written statement dated 6 November 2023 that he can no longer accommodate them due to the lack of space there.

The applicant intends to take up occupation of the let property with his wife and thus grounds 4 and 5 are both established. The tribunal found that it is the applicant's genuine intention to live in the let property with his wife for at least 3 months.

The applicant does not insist upon ground 14.

The tribunal proceeded to consider the issue of reasonableness on the making of an eviction order. The tribunal weighed up the respective circumstances and needs of the parties.

The application for eviction is not opposed by the respondent. She has secured alternative accommodation. The tribunal attached significant weight to these factors.

Little is known regarding the respondent's personal circumstances as she has not divulged these to the tribunal.

A relevant Section 11 notice has been issued to the relevant local authority. The tribunal was satisfied that the respondent will be provided with alternate accommodation in the event of an eviction order being made against them.

The respondent has advised that she has already been allocated a tenancy from North Ayrshire Council and whilst she was awaiting an entry date did not believe that she would remain in the let property by the date of the CMD, 19 December 2024. The applicant's representative stated that as at the date of the hearing that the respondent remained in the property. On the basis of all information available it is most likely that the respondent will voluntarily leave soon but it is reasonable that the applicant be granted an eviction order to provide certainty.

Weighing up the respective circumstances of the parties, the tribunal concluded that it was reasonable to grant the eviction order. The tribunal deferred the date for implementation until 31 January 2024 to take account of the upcoming festive holidays.

### **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.**

Richard Mill

**19 December 2024**

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**Legal Member/Chair**