



**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/24/2576**

**Re: Property at 10 Calfhill Road, Glasgow, G53 5YJ (“the Property”)**

**Parties:**

**Amina Choudary, 8 Greenlaw Road, Glasgow, G77 6ND (“the Applicant”)**

**Kishwar Naheed, Zafar Iqbal, 10 Calfhill Road, Glasgow, G53 5YJ (“the Respondents”)**

**Tribunal Members:**

**Joel Conn (Legal Member) and Jane Heppenstall (Ordinary Member)**

**Decision (in absence of the Respondents)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

1. This is an application by the Applicant for an eviction order in regard to a Private Residential Tenancy (“PRT”) in terms of rule 109 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”). The PRT in question was let by the Applicant to the Respondents commencing on 1 September 2023. The application was dated 5 June 2024 and lodged with the Tribunal on that date.
2. The application relied upon a Notice to Leave dated 12 February 2024 in terms of section 50 of the *Private Housing (Tenancies) (Scotland) Act 2016*, intimated upon the Respondents by a Sheriff Officer on that date, as permitted by the terms of the Tenancy Agreement. The Notice relied upon Ground 4 of Schedule 3 Part 1 of the 2016 Act, being that “Your Landlord intends to live in the Let Property”. The Notice provided no further information on the basis for the Applicant’s eviction other than to state that the “landlord requires the property to reside there with family”. The Notice intimated that an application to the Tribunal would not be made before 10 May 2024.

3. The application papers included correspondence from the Applicant and her mother-in-law explaining that that the Applicant was (at the time of lodging the application) pregnant and that she resided with her mother-in-law who wanted her to move out of the property. Evidence of the Applicant's upcoming commencement of maternity leave was also included.
4. Evidence of a section 11 notice in terms of the *Homelessness Etc. (Scotland) Act 2003* served upon Glasgow City Council on 16 August 2024 was provided with the application.

### **The Hearing**

5. The matter called for a case management discussion ("CMD") of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 4 March 2025 at 14:00. We were addressed by the Applicant. There was no appearance for the Respondents.
6. We were informed by the clerk that no contact had been received from the Respondents (nor on their behalf) with the Tribunal. The Applicant stated that there had been no material contact from the Respondents on the matter. She had spoken with the second named Respondent around two months ago when he had received a letter and had called her asking if it was from her. The Applicant said she had replied to him that she had not sent anything but that the letter may have come from the Tribunal. The Applicant said there was no further discussion about eviction at that time, but that she had been speaking to the Respondents for some time about her desire to move into the Property. She said that the second named Respondent had repeatedly said that he was happy to move. She believed the Respondents still lived at the Property. The Applicant said that the second named Respondent had, at one early point, said that he was finding it difficult to find anything suitable, so she had given him details of a letting agent and also forwarded on details of potential suitable tenancies. The Applicant suspected that the Respondents were not keen to move due to the rent of the Property being affordable for them, and because they had family were nearby. We considered all these matters and further considered that the Respondents had received clear intimation of the CMD from Sheriff Officers. Having not commenced the CMD until around 14:05, we were satisfied to consider the application in the Respondents' absence. In any case, no attempt was made by the Respondents (nor anyone on their behalf) to dial in late to the CMD.
7. At the CMD, the Applicant confirmed that the application for eviction was still insisted upon and that the circumstances set out in the application remained accurate, but with the additional information that:
  - a. Her baby had now been born, and was five months old.
  - b. Her mother-in-law had now provided her with a notice asking her and her husband to leave her property.We asked for further information regarding the Applicant's current living arrangements and options, and she provided the following information:
  - c. Her mother-in-law's property was a three-bedroom property. The Applicant, her husband, and their baby lived in one bedroom and her mother-in-law in another. The third bedroom was kept for guests, in particular her husband's

- sisters who would come to visit and to care for her mother-in-law (who was elderly and had health issues).
- d. The Applicant's husband was in employment but did not have the financial means for them to rent another property.
  - e. The Applicant and her husband had no other properties available to them.
  - f. The Applicant was keen to move into her own property as they currently lacked personal space.
8. The Applicant provided the following points regarding the Property and Respondents that were relevant to reasonableness:
- a. The Respondents lived with their four children at the Property.
  - b. The children were thought to be between 16 and 20, so either out of full-time secondary education or coming to the end of it.
  - c. The Property was a four-bedroom semi-detached house.
  - d. It was not adapted for the Respondents' use.
  - e. The Property's location and nature was not known to be specifically suitable for the Respondents though the Applicant believed there had been mention of it being close to the Respondents' family.
  - f. The Respondents were not in arrears.
  - g. The Property was not kept in good condition by the Respondents. The grass was uncut and there was staining on the walls.
  - h. Neighbours had made comments that led the Applicant to suspect that other people were living at the Property along with the Respondents and their children, but she did not have further information on this.
9. No motion was made for expenses.

### **Findings in Fact**

10. On or around 9 September 2023 the parties signed a Private Residential Tenancy agreement with commencement backdated to 1 September 2023 ("the Tenancy").
11. On 12 February 2024, the Applicant agent drafted a Notice to Leave in correct form addressed to the Respondents, providing the Respondents with notice, amongst other matters, that the Applicant wished to live in the Property.
12. The Notice to Leave provided the Respondents with notice that no application would be raised before the Tribunal prior to 10 May 2024.
13. A Sheriff Officer instructed on behalf of the Applicant served copies of the Notice to Leave on the Respondents on 12 February 2024.
14. Clause 1 of the Tenancy Agreement permits for service of notices by personal service.
15. The Applicant raised proceedings for an order for eviction with the Tribunal, under Rule 109, relying on Ground 4 of Schedule 3 Part 1 of the 2016 Act on or around 5 June 2024.

16. A section 11 notice in the required terms of the *Homelessness Etc. (Scotland) Act 2003* was served upon Glasgow City Council by the Applicant on or about 26 August 2024.
17. The Respondents reside at the Property with four children.
18. The Respondents' four children are in their mid-to-late teens through to their early 20s.
19. The Property is not specially adapted for the use of the Respondents nor their family.
20. The Applicant owns no other property other than the Property.
21. The Applicant's husband owns no property.
22. The Applicant, her husband and their five-month old baby are currently living with the Applicant's mother-in-law, sharing a single room.
23. The Applicant's mother-in-law frequently has other family members to stay with her, both to visit and to care for her.
24. The Applicant's mother-in-law has requested that the Applicant, her husband and their child move out of the property.
25. The Applicant is currently on maternity leave. Her husband is in employment.
26. The Applicant and her husband lack the finances to obtain a further property.
27. The Applicant wishes to occupy the Property to turn it into her family home, due to her personal accommodation circumstances and her desire to have her own space.
28. The Property is a four-bedroom semi-detached house.

### **Reasons for Decision**

29. The application was in terms of rule 109, being an order for eviction from a PRT. We were satisfied on the basis of the application and supporting papers that the Notice to Leave had been correctly drafted and served upon the Respondents.
30. Ground 4 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:
  - (1) *It is an eviction ground that the landlord intends to live in the let property.*
  - (2) *The First-tier Tribunal may find that the ground named by subparagraph (1) applies if—*

- (a) *the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months,*
- (b) *the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.*

...

(4) *Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the landlord has that intention.*

31. The letters in the application papers, augmented by the submissions at the CMD, clearly showed that paragraphs 1 and 2(a) of Ground 4 were satisfied. In any case, there was no appearance from the Respondents opposing any part of the application. We hold that Ground 4 is satisfied subject to paragraph 2(b) regarding reasonableness.
32. We require, in terms of the Act as currently amended, to consider the reasonableness of the application. We were satisfied that the Applicant's reasons for seeking eviction were reasonable given her personal housing situation, her young child, her desire to set up a family home, and the request by her mother-in-law that the Applicant and her family move out. Though granting the order was potentially placing the Respondents and their family at risk of homelessness, the Respondents did not enter appearance to oppose the order. We were satisfied that it is reasonable to evict on the basis of the information before us.
33. The Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. On the basis of the information held, we are thus satisfied to grant an order for eviction at this time under Ground 4 in normal terms.

### **Decision**

34. In all the circumstances, we grant an order against the Respondents for eviction from the Property under section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* further to ground 4 of Schedule 3 of that Act.

### **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.**

# Joel Conn

4 March 2025

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Legal Member/Chair

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Date