

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 24 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) in respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the Rules

Chamber Ref: FTS/HPC/CV/23/1684

Re: Property at 19 Woodrow Court, 15 Woodrow Road, Glasgow, G41 5PN (“the Property”)

Parties:

Mr Salman Ahmad, 158 Maxwell Drive, Glasgow, G41 5AF (“the Applicant”) per his agents, Kee Solicitors, 146, West Regent Street, Glasgow, G2 2RQ (“the Applicant’s Agents”)

Mr Shahzada Rakha Bibi, 19 Woodrow Court, 15 Woodrow Road, Glasgow, G41 5PN (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Tony Cain (Ordinary Member)

Decision

- 1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) having found that there was no evidence that £5,089.00 is due and owing by the Respondent to the Applicant, the Tribunal refuses the Application and makes no order.**

Procedural Background

- 2. By application received between 24 May 2023 and 30 August 2023 (“the Application”), representatives for the Applicant applied to the Tribunal for a payment order in respect of rent arrears arising from a tenancy between the Parties. The Application, along with an application for an eviction order, was**

accepted by the Tribunal Chamber and, following a Case Management Discussion (CMD), a Hearing was fixed and postponed. Prior to the postponed CMD, both Parties lodged documentation with the tribunal chamber.

3. The postponed Hearing took place on 13 November 2024 at 10.00 by Webex. The Applicant was present and was represented by his sister, Ms. Ahmad. The Respondent was present, unrepresented and accompanied by his wife as a supporter in terms of Rule 11 of the Rules. An Urdu interpreter was present.
4. The Tribunal heard evidence from Mr. Ahmad, the Applicant, his mother, Mrs. Shabana Ahmad, and from the Respondent, Mr. Bibi. The Hearing was adjourned due to lack of time.
5. The Tribunal issued the following Direction:
The Applicant.
 1. *The Applicant, Mr. Ahmad, is required to attend the Hearing the date of which is to be fixed and intimated to the Parties and which will be held in person at Glasgow Tribunal Centre.*
 2. *The Applicant, Mr. Ahmad, is required to submit: i) A new statement of rent due and owing. The statement should be in tabular format and should detail the amount of rent due, the date on which it fell due, the amount of rent paid, if paid in cash or to a bank account and the running total of unpaid rent. The statement should include all payments received from the Respondent including payments received before the beginning of the tenancy, if any. The following is an example of what is required: Date rent due Date rent paid Amount of rent due Amount of rent paid Payment method (cash or bank) Bank account holder, if applicable Running total*
 - ii) *Evidence of the identity of the tenants or occupiers who resided in the Property from December 2020 to August 2021. This could be a copy tenancy agreement, rent book/receipt records, council tax records or similar. Sensitive personal information can be redacted;*
 - iii) *A timeline of all interactions between the Applicant, the Applicant's mother and the Respondent. This should detail all meetings, telephone calls, correspondence and messages and should include interactions with the Applicant's letting agents and representatives on his behalf;*
 - iv) *The personal circumstances of the Applicant with regard to the effect that the Respondent's failure to pay rent has on him;*
 - v) *Details of the Applicant's rental property portfolio, if any and vi) Any other matters which the Applicant considers the Tribunal should have regard to in reaching a decision on reasonableness in respect of the eviction application.*
 3. *The Applicant, Mr. Ahmad, is required to submit a list of any other witnesses he wishes to call and to advise what language interpreters, if any, will be required.*

The Respondent

4. *The Respondent, Mr. Bibi, is required to attend the Hearing the date of which is to be fixed and intimated to the Parties and which will be held in person at Glasgow Tribunal Centre.*
5. *The Respondent, Mr. Bibi, is required to submit a list of any witnesses he wishes to call and to advise what language interpreters, if any, will be required.*
6. *The Respondent, Mr. Bibi, is required to submit:*
 - i) *A statement of all rent paid by him. The statement should be in tabular format and should detail the amount of rent due, the date on which it fell due, the amount of rent paid, if paid in cash or to a bank account and the running total of unpaid rent, if any. The statement should show all payments made by him, including payments made before the beginning of the tenancy, if any. The following is an example of what is required:*

Date rent due	Date rent paid	Amount of rent due	Amount of rent paid	Payment method (cash or bank)	Bank account holder, if applicable	Running total
 - ii) *Evidence of that he occupied the Property from December 2020 to August 2021. This could be a copy tenancy agreement, rent book/receipt records, council tax records or similar. Sensitive personal information can be redacted;*
 - iii) *A timeline of all interactions between him and the Applicant and the Applicant's mother. This should detail all meetings, telephone calls, correspondence and messages and should include interactions with the Applicant's letting agents and representatives on his behalf;*
 - iv) *The Whatsapp message he alleges he received from the Applicant's mother;*
 - v) *The personal circumstances of the Respondent and his family who reside with him with regard to the effect that an eviction order will have on his family and him;*
 - vi) *Details of any state benefits relating to housing costs which have been claimed but not yet have been paid to him;*
 - vii) *Any other matters which the Respondent considers the Tribunal should have regard to in reaching a decision on reasonableness in respect of the eviction application."*

6. The Parties complied with the Direction.
7. As part of his reply to the Direction, the Respondent, Mr. Bibi, attempted to lodge a video or voice message. These did not comply with the Tribunal Rules and so were not accepted in evidence.
8. The Tribunal also Directed the Applicant's mother, Mrs. Shabana Ahmad, to attend the adjourned Hearing, which she did.

9. Prior to the date of the adjourned Hearing, the Applicant appointed the Applicant's Agents to represent him.
10. The adjourned Hearing took place on 21 February 2025 at 10.00 at the Glasgow Tribunal Centre. The Applicant was present and was represented by Ms. Ward of the Applicant's Agents. The Respondent was present, unrepresented and accompanied by his wife as a supporter in terms of Rule 11 of the Rules. An Urdu interpreter was present.
11. The Tribunal heard evidence from the Respondent, Mr. Bibi's, witnesses, Mr. Muhammad Kamran Butt and Mr. Goher Afridi Ali.

Applicant's Evidence in respect of rent arrears and Ground for eviction order.

12. The Applicant, Mr. Ahmad, gave evidence on his own behalf. He confirmed that he is the owner and landlord of the Property. He stated that the Respondent, Mr. Bibi, has been the tenant of the Property since August 2021. The rent is £600.00 per month. Mr. Ahmad stated that Mr. Bibi made one payment of rent by bank payment, but, as Mr. Bibi was new to the UK and did not have a bank account, Mr. Bibi made further payments by cash. Rent was paid in this way until Mr. Bibi travelled to Spain in June 2022 and the rent account fell into arrears. Mr. Ahmad stated that he collected the rent in person at the Property. He stated that he had not given Mr. Bibi any receipts for the rent payments.
13. With regard to rent arrears, Mr. Ahmad stated that no rent was paid between June 2022 and January 2023 when £800.00 was paid to his mother's bank account. He stated that this sum was returned to Mr. Bibi in cash. Mr. Ahmad stated that, thereafter, Mr. Bibi has paid £600.00 each month to Mr. Ahmad mother's bank account, except for October 2024 when £311.00 was paid. He confirmed that the rent arrears and sum sought amounted to £5,089.00.
14. In reply to cross-examination questions from Mr. Bibi, Mr. Ahmad did not accept that it was his mother and not himself who collected the monthly rent in cash. Mr. Ahmad did not accept that payments of £600.00 had been paid in June and July 2022 and that payments of £800.00 had been paid monthly from September 2022 until January 2023. He stated that he was not aware that his mother had arranged for two men to reside in the Property with Mr. Bibi and that she had advised Mr. Bibi that the rent would be increased to £800.00 per month with Mr. Bibi's share being reduced.

15. Mrs. Shabana Ahmad, the Applicant's mother, gave evidence. Ms. Ahmad, her daughter, was warned in respect of appearing to coach her mother in respect of her evidence.
16. Mrs. Ahmad denied that she had ever visited the Property and denied collecting rent in cash. She stated that she had received £600.00 to her bank account in December 2021 and £800.00 in January 2023. Thereafter, she has received £600.00 each month to her bank account, except for October 2024 when £311.00 was paid. She had nothing further to say.
17. In reply to cross-examination questions from Mr. Bibi, Mrs. Ahmad did not accept that she had collected rent in cash from him and insisted that the only payments she received were to her bank account from January 2023. She flatly denied having left a voice mail message in or around June 2022 asking for payment of rent from Mr. Bibi and the boys who resided with him. She denied having visited the Property. She denied bringing other boys to the Property to reside there and denied increasing the rent. She denied that the telephone number Mr. Bibi had for her was, in fact, her number. She denied that the underpayment of £311.00 in October 2024 was agreed as Mr. Bibi had replaced the washing machine in the Property.
18. In response to questions from the Tribunal, Mrs. Ahmad stated that she used the rent payments as her son's contribution for household bills. She denied that she acted as her son's representative in respect of managing the tenancy. She repeated that she "did not take cash".

Respondent's Evidence in respect of rent arrears and Ground for eviction order.

19. The Respondent, Mr. Bibi, gave evidence on his own behalf. He confirmed that he is the tenant of the Property.
20. Mr. Bibi stated that he moved in to the Property in December 2020. He explained that he was new to the UK and a friend arranged for him and another man to share the Property with the man who was the tenant at that time. He did not have a lease and paid his share of the rent in cash. He stated that in August 2021 he signed a lease in his own name with "Aunty" Shabana Ahmad and paid rent to her bank account. He stated that Aunty then told him that she was not well enough to go to the bank and that he should pay the rent in cash which she collected.
21. Mr. Bibi stated that, in October 2022, Mrs. Ahmad told him that she was amending the lease. He stated that he attended Mrs. Ahmad's home and

signed a new lease but Mrs. Ahmad did not give him a copy. The new lease increased the rent to £800.00 and Mrs. Ahmad moved two boys into the flat to share with Mr. Bibi. He stated that he had been sharing previously. He stated that his share of the rent was now £230.00, with the boys paying £570.00. Mr. Bibi stated that he paid the full £800.00 to Mrs. Ahmad's bank account until January 2023. He understood the rent to be £800.00 at that time.

22. With regard to the period from June 2022 to December 2022, Mr. Bibi stated that he was in Spain from June 2022 to September 2022 and had asked a friend to pay his rent. Mr. Bibi stated that in August 2022, Mrs. Ahmad had sent him a voice message that the rent had not been paid and asking him to chase the boys for payment. Mr. Bibi stated that £800.00 was paid to Mrs. Ahmad's bank account in September and October 2022 and cash payments of £800.00 were paid to her in November and December 2022. He denied having received a refund of £800.00.
23. Mr. Bibi denied having any rent arrears. He stated that he paid the rent asked and, from February 2023, has paid £600.00 to Mrs. Ahmad's bank account. He explained the underpayment in October 2024 as a deduction from the rent of the cost of a washing machine as the landlord refused to replace this.
24. In reply to cross-examination questions by Ms. Ahmad, Mr. Bibi confirmed that he is sole tenant. He stated that the boys he shared with were placed by Mrs. Ahmad and were not lodgers found by him. He stated that Mrs. Ahmad had a key to the Property and visited to check on him and the boys. He stated that Mrs. Ahmad told him that either he would have to share with others or would have to leave the Property.
25. In reply to further cross-examination questions by Ms. Ahmad, Mr. Bibi confirmed that he receives housing benefit and denied making fraudulent claims. He said that he paid in cash as this is what Mrs. Ahmad asked him to do. Mr. Bibi denied having received arrears letters from Mr. Ahmad and stated that he had only dealt with Mrs. Ahmad. He stated that he had not met Mr. Ahmad. When asked why he signed a lease if Mr. Ahmad was not present, Mr. Bibi said that it had already been signed by Mr. Ahmad and that both Mrs. Ahmad and her husband were present when he signed. Mr. Bibi denied that the boys who shared with him were personal friends and stated that they had been brought to the Property by Mrs. Ahmad.
26. In response to questions from the Tribunal, Mr. Bibi stated that it was only Mrs. Ahmad who came to the Property until May 2023, when Ms. Ahmad also came to the Property and both were abusive to him and his wife.

27. Mr. Mohammad Kamran Butt gave evidence. He stated that he and Mr. Bibi come from the same small village and that Mr. Bibi contacted him for help when Mr. Bibi arrived in the UK. Mr Butt stated that he had a friend, Mr. Chaudhry, who resided in Woodrow Court and who had two spare rooms. He took Mr Bibi and another man to the Property and they began to live there. From memory, Mr. Butt thought that this had been around December 2020. He recalled that an older lady had been in the Property and collected the rent of £250.00 per month cash. Mr. Butt stated that he visited regularly and the lady, who had a key to the Property, often let herself in without prior arrangement and would help herself to items from the fridge. Mr. Butt stated that, when he challenged her in respect of these visits, she said that she had a legal right to be there and check that everything was clean. Mr. Butt stated that he had witnessed Mr. Bibi pay his rent to the lady in cash on numerous occasions.
28. In reply to cross-examination questions by Ms. Ward, Mr. Butt stated that he had known Mr. Bibi for around 25 years. He denied that Mr. Bibi had told him what to say in respect of the cash payments based on their friendship and denied lying to help Mr. Bibi. He denied that Mr. Bibi had not lived in the Property before August 2021 and stressed that Mr. Bibi had shared the accommodation from December 2020. He stated that Mr. Bibi shared with two boys but that the old lady would sometimes bring in other boys for shorter stays and the rent would be adjusted.
29. In reply to further cross-examination questions by Ms. Ward, Mr. Butt stated that he did not know the lady's name but would recognise her. He stated that he was very surprised to learn that the Applicant, Mr. Ahmad, is the landlord of the Property and stated that he had never seen Mr. Ahmad before. He stated that it was not true that Mr. Ahmad had collected the rent.
30. Mr. Goher Afridi Ali gave evidence. He stated that he and Mr. Bibi began living with Mr. Chaudhry at Woodrow Court in December 2020. They each had a room and paid £250.00 cash. Mr. Ali stated that he sometimes paid his rent to Mr. Bibi and sometimes to Mr. Chaudhry. Mr. Ali stated that he resided in the Property from December 2020 until May 2021 when he moved to his current address.
31. In reply to cross-examination questions by Ms. Ward, Mr. Ali stated that sometimes Mr. Bibi paid the rent to Mr. Chaudhry. Mr. Ali stated that he knew of Mr. Asim and that Mr. Asim resided in the Property from time to time. Mr. Ali stated that he did not know the Applicant, Mr. Ahmad, and was "seeing him for the first time".
32. Neither Mr. Butt nor Mr. Ali could speak to the period of Mr. Bibi's tenancy.

Additional evidence before the Tribunal.

33. In addition to the Application with its accompanying documents and the oral evidence, the Tribunal had the benefit of the written submissions from both Parties and the productions and statements lodged by the Parties in response to the Direction.

34. From the additional evidence the Tribunal noted the following as relevant:

i) The tenancy agreement between the Parties.

This tenancy agreement is not in the format required by the 2016 Act, nor is it in the format required by any earlier legislation. The agreement does not give the Respondent, as tenant, fair notice of the grounds for recovery of possession of the Property nor does it set out his statutory rights as tenant. The tenancy agreement between the Parties is witnessed by Mrs. Ahmad and Mr. Ahmad senior.

ii) The previous tenancy agreement between the Applicant and Mr. M. Asim.

The tenancy agreement entered into by the Applicant, Mr. Ahmad, as landlord, and Mr. Asim, as tenant, is, also, not in the format required by the 2016 Act, does not give the tenant fair notice of grounds for recovery of possession of the Property and does it set out the statutory rights of the tenant.

iii) The Notice to Leave dated 19 April 2023

The Notice to Leave issued on behalf of the Applicant is inaccurate as it states "You have substantial rent arrears (have not paid rent since June 2022 to date. *Arrears currently stand at £6,000.00.*" The Applicant's rent statement shows that rent was paid on 10 February 2023, 2 March 2023 and 5 April 2023 and that the alleged arrears at the time of issue of the Notice to Leave were £4,800.00.

iv) The rent statements submitted by both Parties'

The rent statements are broadly in line with each other with the exception of the period of the (i) alleged arrears from June to December, both 2022, and (ii) the rent due and paid for the period in 2022 when Mr. Bibi believed the rent to be at the rate of £800.00 per month.

The Applicant's rent statement is in error in respect of the total rent due from the beginning of the tenancy. The duration of the tenancy from 1 August 2021 to 1 December 2024 is 41 months. 41 months at £600.00 per month is £24,600.00 and not £25,400.00 as noted by him. The Applicant appears to have included an additional £800.00 for 1 January 2023 for rent due to him.

The Respondent's rent statement does not have a running total. His statement shows him as having paid £24,511.00 from 1 August 2021 to 1 December 2024;

v) The letter regarding fitness to work submitted by Mr. Bibi shows him to reside in the Property in January 2021;

- vi) There is no proof of posting for the Applicant's letters dated 26 August, 12 October and 30 October, all 2022, which, in any event do not comply with the pre-application regulations;
- vii) The timeline of events submitted by each Party do not accord with one another.

Tribunal's assessment of the evidence.

35. As the key fact in this case, being the extent of rent arrears, if any, is in dispute, the core issue for the Tribunal is one of credibility and reliability of the witnesses.
36. The Tribunal found Mr. Ahmad to be unreliable in respect of his narration of events. His oral evidence and his written timeline were contradictory at times. In evidence, Mr. Ahmad was vague in respect of the payments made and did not mention visits and telephone calls which he noted in the written timeline. The Tribunal did not find it credible that Mr. Ahmad had either collected rent himself or had borrowed from family and friends to make up the rent arrears. The Tribunal found that his explanation of borrowing to make up the rent arrears did not correspond with his contention that the rent arrears caused him to be in debt to the property factor. The Tribunal found his evidence that £800.00 paid by Mr. Bibi was returned to Mr. Bibi in cash at a time when Mr. Bibi was allegedly in arrears of £ 4,800.00 and Mr Ahmad was in debt to friends and family to be wholly unbelievable.
37. The Tribunal found Mr. Ahmad to be an irresponsible landlord who has no regard to his statutory obligations. He appears as an articulate and educated young man, yet, he did not make any attempt to ensure that, both his tenant prior to Mr. Bibi, and, Mr. Bibi himself had the correct tenancy agreements. Mr. Ahmad gave evidence that he did not provide receipts for rent paid. Mr. Ahmad actively had Mr. Bibi pay rent to his mother and so diverted the income from his own accounts. For whatever reasons of his own, Mr. Ahmad allowed his mother to breach his obligations as a landlord by allowing her to place sub-tenants in the Property, to enter the Property without the authority to do so and to increase the rent without following the statutory process.
38. The Notice to Leave issued on behalf of Mr. Ahmad, and presumably on his instructions, is in error in respect of the rent payments and the amount of arrears claimed as due. The rent statement produced by Mr. Ahmad is incorrect in respect of the total amount of rent due for the whole period of the tenancy. These errors show that Mr. Ahmad does not care sufficiently to ensure that procedural aspects of the Application are correct.

39. The Tribunal did not believe Mrs. Ahmad to any extent. The Tribunal found her to be neither credible nor reliable in the way in which she gave evidence by refuting and denying questions before the question had been fully asked. The Tribunal took the view that it was Mrs. Ahmad who “ran the show” and not her son, and, that she did so with complete disregard for her sons’ tenants.
40. The Tribunal found Mr. Bibi to be truthful and reliable. He gave his evidence consistently and with conviction. His narration of how he came to reside in the Property was entirely credible and was corroborated by his two witnesses. The Tribunal fully accepted that Mr. Bibi has resided at the Property since December 2020, first as a lodger of Mr. Asim or Mr. Chaudhry, and, later as a tenant. Mr. Bibi and his witnesses all spoke of rent being in cash, albeit that the witnesses spoke to Mr. Bibi’s time as a lodger. Mr. Bibi and Mr. Butt spoke of the involvement of Mrs. Ahmad in arranging sub-tenants or lodgers and by receiving rent payments in cash.
41. The Tribunal accepted Mr. Bibi’s evidence that he has made payment of the rent to Mrs. Ahmad as outlined in the rent statement provided by him.
42. The Tribunal had no difficulty in finding both the Applicant and his mother to lack credibility and to be unreliable and in finding the Respondent and his witnesses to be truthful and credible.

Findings in Fact

43. On all of the evidence before it, the Tribunal made the following Findings in Fact:
1. Mr. Ahmad is the owner of the Property;
 2. Mrs. Ahmad is the mother of the Applicant, Mr. Ahmad.
 3. Mrs. Ahmad is neither owner nor landlord;
 4. There is a lease between the Parties which is not in the format required by the 2016 Act;
 5. Nonetheless, Mr. Bibi is and has been the tenant of the Property since 1 August 2021;
 6. Prior to becoming the tenant, Mr. Bibi had lodged in the Property;
 7. As lodger, Mr. Bibi paid £250.00 per month;
 8. As lodger, Mr. Bibi paid the £250.00 per month in cash, either to Mrs. Ahmad or to one of his fellow lodgers;
 9. As tenant, the monthly rent for the tenancy is £600.00 per month;
 10. Mr. Ahmad instructed payment of the rent to his mother, Mrs. Ahmad;

11. Mr. Bibi paid £600.00 in cash to Mrs. Ahmad each month from 1 August 2021 to 1 July 2022;
12. Mr. Bibi paid £800.00 in cash to Mrs. Ahmad on 1 August 2022 and on 3 November and 5 December 2022;
13. Mr. Bibi paid £800.00 to Mrs. Ahmad's bank account on 4 January 2023;
14. Mr. Bibi paid £600.00 to Mrs. Ahmad's bank account each month from February 2023 to September 2024;
15. Mr. Bibi paid £311.00 to Mrs. Ahmad's bank account in October 2024, being the rent of £600.00 less the cost of a washing machine;
16. Mr. Bibi has paid £600.00 to Mrs. Ahmad's bank account each month from November 2024 to December 2024;
17. In 2022, Mrs. Ahmad increased the rent without due legal process to £800.00 per month;
18. Mr. Bibi understood the rent to be £800.00 per month for at least two months being September and October 2022;
19. At the date of the Hearing being 21 February 2025, the rent due by Mr. Bibi was £24,600.00;
20. At the date of the Hearing on 21 February 2025, the rent paid by Mr. Bibi was £24,511.00;
21. Rent due by Mr. Bibi to December 2024 is, at most, £89.00;
22. Mr. Bibi does not owe rent of £5,089.00 to Mr. Ahmad.

Issue for the Tribunal

44. The issue for the Tribunal was whether or not it should grant an Order for £5,089.00 as sought by the Applicant. Having found that there was no evidence that £5,089.00 is due and owing by the Respondent to the Applicant, the Tribunal refuses the Application and makes no order.

45. This Decision is unanimous.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Karen Moore

Karen Moore

Legal Member/Chair

10 March 2025

Date