

Housing and Property Chamber
First-tier Tribunal for Scotland



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/24/4231

Re: Property at 3-1 14 Middlesex Gdns, Glasgow, G41 1EL (“the Property”)

Parties:

Mrs Pooja Gautam, 28 Hathaway Drive, Glasgow, G46 7AD (“the Applicant”) and

Mr Shahbaz Dhariwal, 3-1 14 Middlesex Gardens, Glasgow, G41 1EL (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Gordon Laurie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it could decide the application without a Hearing and that it was reasonable to issue an Eviction Order against the Respondent

Background

1. By application dated 10 September 2024, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 1 of Schedule 3 to the 2016 Act, namely that the landlord intends to sell the Property.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, which commenced on 11 September 2020 at a rent of £595 per month, a Notice to Leave dated 24 May 2024 advising the Respondent that an application to the Tribunal under Ground 1 would not be made before 19 August 2024, and an email of 16 October 2024 from Ritehome Limited, Glasgow, confirming they have instructions to sell the Property when the Applicant gets vacant possession.
3. On 8 March 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 29 March 2025.

4. On 1 May 2025, Mrs Maureen Smith, Principal Solicitor, Castlemilk Law Centre, Glasgow, made written representations on behalf of the Respondent. She contended that it would not be reasonable for the Respondent and his family to be evicted. The Respondent is 44, originally from Pakistan, and speaks little English. He lives in the Property with his wife, his son (19) and his daughters (21 and 20). All three children are students. He originally lived in the Property alone, before bringing his family to the UK, where he has EU Settled Status. He was formerly self-employed but lost his business. He is not presently in employment and is in receipt of Universal Credit. He has tried to obtain alternative accommodation in the private rented sector, but his low income means that he has not been successful. Glasgow City Council have told him that they will not accept an application from him for rehousing unless he has already been evicted. The Applicant has not supplied any reason why she wishes to sell the Property and the Tribunal will, therefore, have difficulty in assessing whether or not it is reasonable to grant the eviction. The representations included screenshots of messages between the Respondent and a number of letting agents in which he was seeking to find and view alternative accommodation.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 8 May 2025. The Applicant was represented by Mr Robert Nixon of Ritehome Limited, Glasgow. The Respondent was present and was represented by Mrs Maureen Smith of Castlemilk Law Centre. Mrs Smith confirmed that she would be speaking for the Respondent, but that she had an interpreter on hand who would be able to assist the Respondent should any information be required of him. In the event, that did not prove necessary.
6. The Applicant's representative, Mr Nixon, told the Tribunal that the Property is the only rental flat owned by the Applicant. She has had enough of being a landlord and wishes to exit the sector. Her mortgage payments are £720 per month and factoring charges are £100 per month, but the rent is only £595, so she is losing £225 every month, which it is no longer sustainable. The Applicant had never increased the rent for the Property as she wished to ensure it was as affordable as possible for the Respondent. Mr Nixon said that he understands the Applicant is in full-time employment, but he does not know what her job is. His company had sent the Respondent some information about properties, but the problem he is probably finding is the current level of rents in the area. He indicated that the market rent for a two-bedroom flat in the area was now £1,000 per month. He confirmed that, should the Tribunal be minded to issue an Eviction Order, the Applicant would be content that it should not be enforceable for a period of two months, to allow the Respondent more time to secure alternative accommodation through Glasgow City Council.
7. The Respondent's representative, Mrs Smith, said that the Respondent's position was clearly set out in the written representations, although the reason behind the Applicant's decision to sell had now been given. The Respondent, she added, concedes that the Property is overcrowded, but he does not want to be homeless.

8. The Parties' representatives confirmed that they had nothing more to add and that they did not require the Tribunal to proceed to a full evidential Hearing.

Reasons for Decision

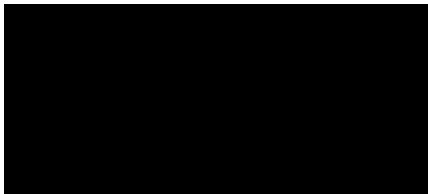
9. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
10. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies.
11. Ground 1 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the landlord intends to sell the let property and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell and intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts. Ground 1 goes on to state that evidence tending to show that the landlord has that intention includes (for example) a letter of engagement from a solicitor or estate agent concerning the sale, or a recently prepared Home Report.
12. The Tribunal was satisfied from the evidence provided by the Applicant and the email of 16 October 2024 that the Applicant intends to sell the Property. Accordingly, the only matter for the Tribunal to decide was whether it would be reasonable to issue an Eviction Order.
13. The Tribunal noted that the Applicant is losing £225 per month on the Property, as her mortgage payments and factoring charges exceed the rent. It was, therefore, understandable that she might want to exit the market. The Respondent and his family are all adults, and five adults sharing a two-bedroom flat is not a satisfactory situation, although it may be all that the Respondent can afford in the private rented sector in the area. The Tribunal also noted that Glasgow City Council would require an Eviction Order to be issued before they would accept a homelessness application and seek to re-house the family.
14. Determining the question of reasonableness requires the Tribunal to consider the impact on both Parties and, whilst it is often, as in the present case, a fine judgement, the view of the Tribunal, having considered carefully all the evidence before it and the representations of the Parties, was that it would be reasonable to issue an Eviction Order. That would allow the Applicant to sell the Property with vacant possession and would enable the Respondent to obtain access to the support services of Glasgow City Council that he needs in order to find suitable alternative accommodation. Recognising that this process will take

some time, the Tribunal decided that the Eviction Order should not be enforceable before 14 July 2025.

15. The Tribunal's Decision was 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.



Legal Member/Chair

Date: 8 May 2025