

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(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/4281

Re: Property at 290 Montford Avenue, Glasgow, G73 2EQ (“the Property”)

Parties:

Mrs Karamjit Kaur, 17 Beltane Street, Wishaw, ML2 0HD (“the Applicant”)

Mr Mohammad Shakoor, 290 Montford Avenue, Glasgow, G73 2EQ (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property.

Background

1. By application dated 13 September 2024 the Applicant’s representatives, Ness Gallagher, Solicitors, Wishaw, applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a copy of a tenancy agreement, Notice to Leave with execution of service, Section 11 Notice with proof of service, an agreement to carry out conveyancing of the property on sale and a letter of appointment by selling agents together with other documents in support of the application.
2. By Notice of Acceptance dated 11 November 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 25 February 2025.

The Case Management Discussion

4. A CMD was held by teleconference on 30 April 2025. The Applicant did not attend but was represented by Mr Thomas Gallagher from the Applicant's representatives. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation of the CMD had been made to the Respondent determined to proceed in his absence.
5. The Tribunal noted from the documents submitted with the application that the parties commenced a Private Residential tenancy of the property on 1 May 2021 at a rent of £600.00 per calendar month. The Tribunal also noted that the Respondent had originally been given the wrong tenancy agreement namely a Short Assured Tenancy agreement but the correct form of agreement had been signed by the Respondent on 2 May 2024. Mr Gallagher advised the Tribunal that the Respondent currently owed rent amounting to £6600.00.
6. The Tribunal also noted that the Respondent had been served with a Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act by Sheriff Officers on 5 June 2024 and that a Section 11 Notice had been sent to South Lanarkshire Council by email on 21 May 2024.
7. Mr Gallagher confirmed that his firm had been instructed to carry out the conveyancing following the sale of the property and that Hemming Homes had been instructed to market the property. Mr Gallagher also advised the Tribunal that despite the Respondent being requested to allow a surveyor access to prepare a Home Report this had not been granted and the Applicant had been unable to progress the sale including considering a sale with a sitting tenant.
8. Mr Gallagher went on to say that the property was the Applicant's only rental property and that she no longer wished to be a landlord. Mr Gallagher said that following the issue with the wrong tenancy agreement and having the obligations of being a landlord explained to her the Applicant had decided to sell the property. This decision had been strengthened since the Respondent stopped paying rent as the Applicant had a mortgage to pay on the property amounting to £330.00 per month and with no rent being paid this was affecting the Applicant's finances.
9. Mr Gallagher advised the Tribunal that he understood the Respondent lived in the property with his wife and three children and that he had contacted the local authority for housing but was unaware of anything further as regards the Respondent's circumstances. Mr Gallagher said he had been told that the Respondent was in receipt of Housing Benefit and that he had written to the local authority but had not received a reply.

10. Mr Gallagher submitted that it was reasonable in the circumstances to grant an order for eviction.

Findings in Fact

11. The Respondent commenced a Private Residential Tenancy of the property on 1 May 2021.

12. A new tenancy agreement was signed by the parties on 2 May 2024.

13. A Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act was served on the Respondent on 5 June 2024.

14. A Section 11 Notice was sent to South Lanarkshire Council on 21 May 2024.

15. The Applicant has instructed Hemming Homes to market the property for sale and Ness Gallagher to undertake the conveyancing.

16. The Applicant has a mortgage over the property that costs her £330.00 per month.

17. The Respondent has stopped paying rent and currently owes rent amounting to £6600.00.

18. The Applicant is suffering financially as a result of the Respondent not paying rent.

19. The property is the Applicant's only rental property and the Applicant no longer wishes to be a landlord.

20. The Respondent has refused to allow the Applicant's surveyor access to the property to prepare a Home Report.

21. The Respondent lives in the property with his wife and three children.

Reasons for Decision

22. The Tribunal was satisfied from the documents submitted and the oral submissions of the Applicant's representative that the parties entered into a Private Residential tenancy that commenced on 1 May 2021. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 1 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to South Lanarkshire Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced and the Applicant's

representative's oral submissions that she intends to use Hemming Homes and Ness Gallagher to market, sell and convey the property.

23. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that despite being given an opportunity to submit written representations and to attend the CMD the Respondent had chosen to do neither. In reaching its decision the Tribunal took into account the very substantial amount of rent arrears that had accrued amounting to some eleven months' rent and the adverse effect this was having on the Applicant who had to pay a substantial mortgage payment for the property each month in addition to other outgoings. The Tribunal also took account of the fact that the Applicant was not a professional landlord and had no other rental properties and wished to cease being a landlord. The Tribunal had limited information as regards the Respondent's circumstances other than that he was married with three children living with him. However, on balance and given the level of rent arrears and the lack of participation in the proceedings by the Respondent the Tribunal was satisfied that it was reasonable in the circumstances to grant an order for the eviction of the Respondent from the property and that the tenancy would end on 2 June 2025 and the order for eviction would come into effect on that date.

Decision

24. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for the eviction of the Respondent from the property.

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.

**Graham Harding
Legal Member/Chair**

**30 April 2025
Date**