

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/24/2566

Re: Property at Flat 2, 5 Riverview Gardens, Glasgow, G5 8EG (“the Property”)

Parties:

Picture Living Investments GP LLP, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

**Mr Sameer Chopra, Swati Saini, Flat 2, 5 Riverview Gardens, Glasgow, G5 8EG
 (“the Respondents”)**

Tribunal Members:

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

Decision

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 Respondents from the property but that enforcement of the order be suspended for a period of three months from the date of the decision.

Background

1. By application dated 5 June 2024 the Applicants’ representative, Patten & Prentice LLP, Solicitors, Greenock, applied to the Tribunal for an order for the eviction of the Respondents from the property in terms of Ground 12 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, pre-action emails to the Respondents, Notices to Leave with proof of service, Rent Increase Notices with proof of service, a Section 11 Notice and accompanying email and a rent statement together with other documents in support of the application.

2. By Notice of Acceptance dated 24 June 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 Respondents by Sheriff Officers on 18 September 2024.
4. By email dated 17 October 2024 the Applicant's representatives submitted an amended rent statement to the Tribunal showing the rent due as at 1 October 2024 to be £5915.00.
5. A CMD was held by teleconference on 22 October 2024. The Applicant was represented by Mr O'Donnell from the Applicant's representatives. The Respondent Mr Chopra attended in person and also represented his wife, Mrs Saini. After hearing from the parties the Tribunal continued the CMD to a hearing to allow the Respondents to make payment of rent and payments towards the arrears. The Tribunal also issued written directions to the Respondents to submit written representations as regards any defence to the application or on reasonableness or otherwise of the application. The Tribunal required written submissions to be lodged by close of business on 22 December 2024.
6. By email dated 18 May 2025 the Respondents requested a postponement of the hearing as the First Named Respondent was unable to attend due to his work. The Tribunal determined to consider the postponement request as a preliminary matter at the hearing.

The Hearing

7. A hearing was held by teleconference on 20 May 2025. The Applicant was again represented by Mr O'Donnell. Also in attendance for the Applicant was Miss Amy Goodway and Miss Kaminski. The Respondent Mr Chopra attended on behalf of both Respondents. Mr Chopra confirmed he was no longer insisting on his application for a postponement of the hearing.
8. The Tribunal queried with Mr O'Donnell if any issue had been taken at the CMD with service of the Notices to Leave or Section 11 Notice or any other procedural matters. Mr O'Donnell said it was his understanding that there were no such issues and that the CMD had been continued to a hearing on the basis of reasonableness and for the Respondents to start paying their rent and payments to the arrears which they had failed to do.
9. In response to a query from the Tribunal Mr O'Donnell said that a further rent statement had been submitted to the Tribunal in April 2025 showing the rent due at that time to be £10205.00 and that the current rent due amounted to £10920.00. Mr Chopra agreed that the

Respondents were due this amount. Mr Chopra went on to say that if the Respondents were permitted to remain in the property, they would start to pay the monthly rent of £715.00 together with an additional sum of £350.00 - £400.00 each month towards the arrears. Mr Chopra also said that given three months he could also be in a position to make a capital payment of three to four thousand pounds towards the arrears.

10. For the Applicant, Mr O'Donnell said that the Respondents had a history of making proposals to pay rent and payments to the arrears but that no payments had been forthcoming and that the Applicant was therefore seeking an order for eviction.
11. The Tribunal noted from Mr Chopra that the Respondents were not taking any issue with the service of the Notice to Leave or the Section 11 Notice on the Local authority and that the issue for the Tribunal to determine was whether or not it was reasonable for an order for eviction to be granted.
12. Mr Chopra advised the Tribunal that without going back over the difficulties experienced by his family in the past and referred to at the CMD, he and his wife were now back on their feet and looking for options to move forward. Mr Chopra said that he had obtained employment as a sales consultant with a hospitality company and that his wife had obtained part time work as well. Mr Chopra went on to say that although he had received his first full pay last month, he had not paid any rent as he had other personal debts resulting from his parents' medical conditions that he had to clear but that he was now in a position to commence payment of rent and towards the arrears. Mr Chopra also said that he had been waiting for a formal decision from the Tribunal before starting payments. Mr Chopra went on to say that he would like to remain in the property and pay the rent and clear the arrears but accepted that he could be evicted and would accept that decision but in that case asked the Tribunal for additional time to find alternative accommodation. Mr Chopra explained that in addition to himself and his wife they had their six-year-old daughter living with them at the property. Mr Chopra confirmed that his daughter was enrolled at the local primary school and that it would be difficult to find other accommodation in the same school catchment area. Mr Chopra said that he thought it likely if they were evicted, they would have to move to another area such as Pollockshaws or Paisley and that this would make it more difficult for childcare and his daughter's schooling.
13. In response to a query from the Tribunal, Mr Chopra said that neither he nor his wife were entitled to any state benefits as they were admitted to the country on student visas but that they had now obtained sponsorship. In response to a further query, Mr Chopra said that although he had been in contact with Glasgow City Council as regards the availability of housing there had been nothing available and he did not wish to go down the homeless route but rather wished to remain in the property or else find another private let. Mr Chopra went on to say

although he had promised to start paying rent in November his part time work had been reduced and his wife's job had not been forthcoming however both he and his wife were well educated and they had been looking to find employment in their own areas of expertise and things were now going in the right direction. Mr Chopra concluded by saying that if the Tribunal found that it was appropriate to grant an order for eviction he was asking for extra time of three to six months to find another property. Mr Chopra explained that he would wish a similar sized property but if that was not possible, he would consider sharing a property or staying with friends or relatives although did not have any friends or relatives in mind.

14. Mr O'Donnell led evidence from Miss Amy Goodway who confirmed she had been employed as the sole Credit Control Administrator for the Applicant since October 2023. Miss Goodway explained that the role included dealing with rent increases, rent payments and pursuing legal actions when required. Miss Goodway explained that in October 2023 the Respondents owed rent of £2125.00 and that she had contacted the Respondents by voicemail, phone calls and letters to try to obtain payment. Miss Goodway went on to say that the Respondents had made multiple proposals for payment of the rent and the arrears but that none had been adhered to. She thought this had happened on roughly five occasions. Miss Goodway said that she had not had any contact from Mr Chopra following the CMD in October 2024.
15. In response to a further question from Mr O'Donnell, Miss Goodway said that the Applicant had 1594 let properties and that she managed 1344 of them. Miss Goodway confirmed that the property had two bedrooms and that the type of property was in high demand. Miss Goodway said that the Respondents' failure to pay rent had a large financial impact on the Applicant including substantial legal fees and administration costs. Miss Goodway said that she did not have any confidence in the Respondents' payment proposals given the multiple proposals in the past and believed that the arrears would continue to grow.
16. For the Respondents Mr Chopra submitted that he was not being difficult but the Applicants had 1300 properties and he needed some time and his circumstances had severely impacted his finances and he had been unable to keep his promise to start paying in November but he now had plans.
17. In response to a query from the Tribunal Miss Goodway said that the pre-action letters to the Respondents had directed them to help that was available and that the Applicant had agreed on at least five occasions to repayment proposals put forward by the Respondents but no payments had been made. Miss Goodway also said that legal fees were accruing and that if an order for eviction was granted the property would be re-let. Miss Goodway agreed that if an order for eviction was

delayed for three months and the Respondents maintained their proposed payments that would be to the Applicant's advantage but that she was not confident that the Applicant would be paid given there had been similar proposals before.

18. For the Applicant, Mr O'Donnell asked the Tribunal to grant an order for eviction. For the Respondents, Mr Chopra left it to the Tribunal to decide but asked that if the order for eviction was granted that it be delayed for some months to allow the Respondents time to obtain alternative accommodation.

Findings in Fact

19. The Respondents commenced a Private Residential Tenancy of the property on 17 November 2020.
20. Notices to Leave under Ground 12 of Schedule 3 of the 2016 Act were served on the Respondents on 27 November 2023.
21. A Section 11 Notice was sent to Glasgow City Council on 3 June 2024.
22. Pre-action protocol letters were sent to the Respondents on 16 October 2023 and 3 June 2024.
23. The Respondents owe rent of £10920.00 as at the date of the hearing.
24. The Applicant has 1594 let properties.
25. The Applicant is incurring legal and administrative costs that, in addition to the loss of rental income, has an adverse effect on its finances.
26. The Respondents live in the property with their 6-year-old daughter.
27. The Respondents' daughter attends the local primary school.
28. The Respondents have repeatedly made offers to reinstate payment of rent and payments to arrears but have failed to adhere to these proposals.
29. The Respondents have recently obtained permanent employment.
30. The Respondents have experienced difficulties with the ill health of family members in India over the past two years that has impacted on their finances.

Reasons for Decision

31. The Tribunal was satisfied from the documents submitted and the oral submissions of both parties that the parties entered into a Private Residential tenancy that commenced on 17 November 2020. The Tribunal was also satisfied that valid Notices to Leave had been served on the Respondents under Ground 12 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to Glasgow City Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced and the parties' oral submissions that the Respondents owe rent amounting to £10920.00 as at the date of the hearing.
32. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondents 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 neither party took any significant issue with the other party's position as stated by them although the Applicant's Miss Goodway and Mr O'Donnell were clearly sceptical of the Respondents' ability to maintain payment of rent and payments towards the arrears given the Respondents' past failures. The Tribunal therefore had to balance the needs of the Applicant with the needs of the Respondent in arriving at a decision. On the one hand there was the Applicant who was suffering a financial loss due to the loss of rent and additional legal and administrative costs being incurred. On the other hand, the Tribunal also had to take account of the needs of the Respondents who had to care for their 6-year-old daughter who was attending the local school and who were looking for additional time to find suitable alternative property in the event of an order for eviction being granted.
33. After carefully considering the circumstances of both parties the Tribunal was persuaded that the needs of the Applicant in this application were such that although there would undoubtedly be an adverse impact on the Respondents and their daughter it was reasonable to grant the order sought. The level of rent arrears is very substantial and although the Applicant is a large organisation it would not be reasonable to allow the Respondents to continue to reside in the property not paying rent indefinitely. As was explained to the parties at the hearing the Tribunal was prepared to suspend the coming into effect of the order for a period of three months to allow the Respondents time to find alternative accommodation and also during that time the Respondents will have the opportunity to commence paying rent and make contributions towards clearing the arrears. If they do then it would be open to the Applicant to decide not to take steps to enforce the order at the end of the three-month period but that would be a matter solely for the Applicant to determine, not the Tribunal whose role in these proceedings has, subject to any appeal provisions, concluded.

Decision

34. The Tribunal finds the Applicant entitled to an order for the eviction of the Respondents from the property but that enforcement of the order be suspended for a period of three months from the date of the decision.

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.

**Mr Harding
Legal Member/Chair**

**20 May 2025
Date**