

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/24/5460

Property : Flat 2/2, 35 Gogar Street, Glasgow G33 2JQ (“Property”)

Parties:

NS5 Limited, 7 Bell Yard, London WC2A 2JR (“Applicant”)

TC Young, Solicitors, 7 West George Street, Glasgow G2 1BA (“Applicant’s Representative”)

Ethsham Alam, Flat 2/2, 35 Gogar Street, Glasgow G33 2JQ (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to make an order for possession of the Property.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement which commenced on 4 June 2024; Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 19 September 2024 ("Notice to Leave") with covering email dated 19 September 2024; letter dated 19 November 2024 from Clear Focus Legal regarding the sale of the Property; communications with Glasgow City Council Homeless Service regarding the Respondent’s failure to provide access to the Property and withholding keys; survey prepared by City Building Glasgow dated 7 May 2024 regarding rot in the Property and works required to rectify the damage; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email. A Case Management Discussion (“CMD”) was fixed for 3 July 2025. The Application was served on the Respondent by sheriff officer on 13 May 2025.

Case Management Discussion

A CMD took place before the Tribunal on 3 July 2025 by teleconference. Kirstie Donnelly of the Applicant's Representative was in attendance as was the Respondent.

Mr Alam told the Tribunal that he wished to oppose the application. He said that he has other cases ongoing in the Tribunal against the Applicant. Mr Alam said that he still lives in the Property along with his partner and children aged 8, 2 and 7 months old. He said the Property has 2 bedrooms. Mr Alam said that he did make a homeless application and moved out of the Property in September 2024. He said the family were placed in emergency accommodation. He said they stayed there for only 5 days and the homeless application was refused.

Ms Donnelly said that when the Notice to leave was served in September 2024 the Applicant had received a communication from Glasgow City Council which led the Applicant to believe that the Respondent was not occupying the Property. She said that the Applicant did not wish to insist upon ground 10.

As regards ground 11 Ms Donnelly said that the breach complained of was a failure to allow the Applicant access to the Property in order to carry out repairs. She said that a right entry application was made (RE/24/4641) and access took place in February 2025. She said that the gas safety certificate was prepared and electrical work was carried out but there remained other repairs which still required to be carried out. She said that there were outstanding works required to the bathroom. She said that the works were being coordinated by the factor for the building but the Respondent would not allow access.

Ms Donnelly said that the Applicant was no longer insisting upon ground 3 and wished to rely only upon ground 1 and 11.

Mr Alam told the Tribunal that nobody had tried to gain access to the Property to carry out repairs. He said that he was in the property at the end of September 2024 when the property manager tried to access the property using his own keys. Mr Alam said that he had not received any letters or emails asking for access to carry out repairs. He said that Wheatley Group had been in touch and had carried out an inspection but he had heard nothing further. Mr Alam said that a hearing took place on 27th May 2025 regarding repairs to the property (RP/24/4421). He said that he had asked the Tribunal to grant an order regarding necessary repairs. The Tribunal asked Mr Alam about the repairs. He said that the bathroom required to be refurbished in its entirety. He said that there was a problem with the flooring in both bedrooms. He said that the windows are not wind and watertight.

Ms Donnelly told the Tribunal that the Applicant's position was that when the property manager attempted to access the Property the respondent became

abusive. She said that the former property manager was no longer managing the Property.

As regards ground 1 Ms Donnelly said that the director of the Applicant lives in America. She said that he had been the victim of a crypto currency scam and had lost around £300,000. She said that the Applicant had owned 9 properties. She said that 6 had been sold and the other 3 were in the process of being sold. She said that the Applicant needs to sell the Property to cover the losses made through the scam.

Mr Alam said that he had never signed a tenancy agreement. The Tribunal asked when he took entry to the Property. He said he took entry on 4th June 2024. He said that he saw the property on Gumtree and the name of Khashif Naeem was given. He said he agreed to pay rent of £750 per month. He said that for the first three months he paid £750 into Mr Naeem's bank account. Mr Alam said that he stopped paying the rent between September and February 2025. He said that he met with Mr Naeem on 6 February 2025. He said that Mr Naeem undertook to carry out the necessary repairs. Mr Alam therefore paid to Mr Naeem £7500 to cover the rent arrears due at that date plus rent due up until June at 2025. He said that he handed the money to Mr Naeem in cash. He said that his partner was present and witnessed this taking place. Mr Alam said that he had received a payment from his insurance company following a car accident. He paid the £7500 to Mr Naeem as he had undertaken to carry out the repairs and he wished to secure the Property for his family.

Mr Alam told the Tribunal that he did not want to stay in the Property due to the extensive nature of the repairs which required to be carried out. The Tribunal queried with Mr Alam whether he wished the Tribunal to grant an order for eviction. Mr Alam said that the Council would not help him with his homeless application unless an eviction order was granted. Mr Alam became distressed. He referred to his wife being negatively impacted by the ongoing issues between the applicant and the Respondent. The Tribunal suggested to Mr Alam that it would be appropriate to take a break. Mr Alam said that he did not need a break. The Tribunal decided to adjourn the hearing for 15 minutes to allow you Mr Alam to compose himself. The Tribunal resumed proceedings and again asked Mr Alam to confirm what he wished the Tribunal to do. Mr Alam said that he did not wish to remain in the Property and that he wanted the Tribunal to grant an eviction order which would assist his application for alternative accommodation. Ms Donnelly said that she was content to proceed on the basis of ground 1 only.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property which commenced on 4 June 2024.

2. A Notice to Leave was served on the Respondent by email on 19 September 2024. It stated that an application for an eviction order would not be submitted to the Tribunal before 21 October 2024.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
4. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

Reasons for the Decision

In terms of section 51 of the Act, 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 applies.

In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell the Property; Ground 3 which is that the landlord intends to refurbish the Property; Ground 10 which is that the tenant is no longer occupying the Property as his home and Ground 11 which is that the Respondent has failed to comply with an obligation under the tenancy. Ms Donnelly told the Tribunal that the applicant wished to proceed on the basis of ground 1 only. The evidence lodged with the application of intention to sell was a letter dated 19 November 2024 from Clear Focus Legal regarding the sale of the Property. Having considered the documents lodged and the submissions made at the CMD, the Tribunal determined that grounds 1 had been established.

The Tribunal considered the question of reasonableness. In all the circumstances, and in light of the lack of opposition from the Respondent, the Tribunal determined that it was reasonable to grant an order for possession of the Property.

Decision

The Tribunal determined to grant an order for possession of 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.

Joan Devine

Legal Member

Date : 3 July 2025

