

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 (“the 2016 Act”) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”)

Chamber Ref: FTS/HPC/EV/24/5533

Re: Property at 1/1, 2 Grantley Gardens, Glasgow, G41 3QA (“the Property”)

Parties:

Mr Craig Gibbs, 52 Avoca Road, London, SW17 8SL (“the Applicant”)

Mr Ross Gordon, 1/1, 2 Grantley Gardens, Glasgow, G41 3QA (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the property be granted.

Background

1. By application received on 2 December 2024, the Applicant applied to the Tribunal for an order for recovery of possession of the property in terms of Section 51 of the 2016 Act. Recovery was sought on the basis of Ground 4 of Schedule 3 to the 2016 Act (landlord intends to live in the property). Supporting documentation was submitted with the application and subsequently, including a copy of the tenancy agreement, Notice to Leave and a statement from the Applicant.
2. The application was subsequently accepted by a Legal Member of the Tribunal acting with delegated powers from the Chamber President who issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations on 30 December 2024. Notification of the application was then made to the Respondent and the date, time and arrangements for a Case Management

Discussion ("CMD") were intimated to both parties, advising of the date by which any written representations should be lodged. Said notification was served on the Respondent by Sheriff Officer on 8 April 2025.

3. On 4 July 2025, written representations were received on behalf of the Respondent from his representative, confirming that he had managed to obtain alternative accommodation from Southside Housing Association but did not yet know his 'move-in' date and hoped to secure the agreement of the Applicant on the date he would vacate this Property. In the circumstances, it was submitted that it was not reasonable for an Order to be granted at the CMD, as the Respondent wished to avoid there being such an order against him, although it was hoped that matters may be resolved by the date of the CMD. The representations also provided some further information regarding the Respondent's circumstances and background tenancy matters.
4. On 10 July 2025, the Applicant's representative emailed the Tribunal confirming that the Applicant himself also wished to attend the CMD. The Tribunal Administration responded to advise that this was acceptable.

Summary of Discussion

5. A Case Management Discussion ("CMD") took place by telephone conference call on 11 July 2025 at 2pm, attended by both parties, the Applicant's legal representative, Ms Sophie Reid of Aberdeen Considine & Co, solicitors and the Respondent's legal representative. Ms Maureen Smith of Castlemilk Law Centre.
6. Following introductions and introductory remarks by the Legal Member, Ms Smith provided an update on the Respondent's position. He has now secured a tenancy with Southside Housing Association, commencing on 23 June 2025 but is not yet in a position to vacate this Property and move into his new tenancy as he does not have any furniture as yet and is awaiting white goods, etc being installed via grant funding which should hopefully be in place by the end of July. The Respondent is on a low income and this means that he is presently covering rents for both properties. Ms Smith referred to the Tribunal's overriding objective and Rules 2 and 3 of the Procedure Rules and requested, in the circumstances, that the CMD be continued to a later date, rather than an Order being granted against the Respondent today, which she stated could have implications for him. The Legal Member commented that it was the Tribunal's understanding that an eviction order granted on 'no fault' grounds, such as sought in this application, would not prejudice the Respondent in terms of future housing applications, etc.
7. Ms Reid stated that the Applicant wished an eviction order granted today on the basis that the Respondent now has alternative accommodation available to him and she did not consider there was any prejudice to the Respondent. She mentioned that an order would not be enforceable for around 6 weeks in any event, and also that the quicker this tenancy is ended, the quicker the Respondent's obligation to pay rent would cease.

8. Ms Smith stated that she considered that any such order could be prejudicial to the Respondent and this was the main reason for not wishing an Order to be issued against him today. She confirmed, however, that this was a matter for the Tribunal. She indicated that, ideally, a continuation until mid-August was sought.
9. Ms Reid was then asked to address the application. She confirmed that the PRT started on 1 December 2017, that there are rent obligations in terms of the tenancy and that a tenancy deposit is held with Safe Deposits Scotland. She referred to the signed statement lodged with the application from the Applicant himself which explains his reasons for wishing to recover the Property under ground 4 of the 2016 Act on the basis that he intends to live there himself. A Notice to Leave was served by Sheriff Officer, giving at least 3 months' notice, with the end of the notice period being 29 June 2024. The first date that the Tribunal application could be brought was therefore 30 June 2024. The application was lodged on 2 December 2024. The Respondent already has alternative accommodation available to him, having entered into a new tenancy agreement. She appreciated that the Respondent is trying to obtain funding and is reluctant to move out until that is in place. In her submission, it was, however, reasonable for the order sought to be granted today, as all the requirements of the ground in the legislation have been met. Ms Reid confirmed that the Applicant had lived in the Property himself prior to moving to London, as per his statement. She was asked about the delay in the application being lodged following expiry of the notice period and confirmed that the Applicant had been enquiring about insurance cover and was reluctant to raise proceedings.
10. Ms Smith responded that, although the Respondent does not wish to remain in the Property long-term, she did not consider that the Applicant has shown any pressing need to recover the Property right now. There has been no notice produced to show that he has given up his property in London and she notes he can work from home, so even if he had a job offer in Glasgow, he does not require to actually live in Glasgow.
11. Ms Reid again referred to the Applicant's statement and stated that the reasons he wishes to return home to Glasgow is to be near family and that there have been some serious family health issues arising in recent times which mean that he wishes to be closer by. She pointed out that it is over a year since notice was issued to the Respondent that the Applicant wishes to move back to Glasgow to live in the Property.
12. The Tribunal adjourned to consider the application and, on re-convening, advised that the Tribunal would grant the eviction order sought today and explained why. It was confirmed that, if the Applicant's agent was able to advise the Tribunal that the Respondent had vacated prior to the expiry of the appeal period, it may not then be necessary for the formal Order to be issued against the Respondent. The Tribunal was of the view that it would be beneficial if the parties' representatives kept each other updated meantime as to arrangements for the Respondent vacating.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 1 December 2017.
3. A Notice to Leave dated 3 April 2024 was served on the Respondent by Sheriff Officer on 4 April 2024, in accordance with the terms of the tenancy agreement and the 2016 Act.
4. The date specified in the Notice to Leave as the earliest date a Tribunal application could be lodged was 30 June 2024.
5. The Tribunal Application was received on 2 December 2024.
6. The Applicant intends to live in the Property as their only or principal home for at least 3 months.
7. The Applicant's wish to recover the Property to live in himself is based on personal/family reasons.
8. The Respondent continues to reside in the Property.
9. The Respondent has already entered into a new tenancy agreement, commencing on 23 June 2025 and intends to vacate the Property in the coming weeks.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers, including the application and supporting documentation, the written representations lodged on behalf of the Respondent and the oral representations made on behalf of both parties at the CMD by their representatives.
2. The Tribunal found that the application was in order and that notice had been served timeously and in accordance with the terms of the tenancy agreement and the legislation. The Tribunal was also satisfied that the ground of eviction, that the landlord intends to live in the let property, had been met (Ground 4 of Schedule 3 to the 2016 Act), in that the Tribunal was satisfied that the Applicant intends to occupy the Property as their only or principal home for a period of at least three months and that it was reasonable to issue an eviction order in the circumstances. In considering both the ground of eviction and the issue of reasonableness, the Tribunal had particular regard to the detailed terms of the statement from the Applicant which had been submitted to the Tribunal in support of the application. It was noted that the Applicant had lived in the Property for almost a year after purchasing it, before moving to London, where

he currently lives and that he always intended to return to live in the Property in Glasgow at some point and had therefore decided to retain the Property and let it out. It was noted that he and his girlfriend (also from Glasgow) now wish to return to Glasgow to be closer to family and friends and the Property is suitable to their needs, both in terms of size and location. Their decision to move back had become more pressing, due to serious health concerns arising in terms of family members who reside in Glasgow. The Respondent's circumstances were also considered by the Tribunal and, in particular, the fact that he had already secured a new tenancy with a housing association which had already commenced. Whilst the Tribunal understood the Respondent's wish to avoid an eviction order being granted against him and to delay moving into his new tenancy until it was furnished, the Tribunal did not consider it reasonable to delay the process further. Notice had been served around 15 months ago and an Order granted today would not, in any event, be enforceable for around 6 weeks, which was beyond the period of continuation sought by the Respondent. It had also been stated that the Respondent was on a low income and was presently liable for paying two rents. Accordingly, the Tribunal considered it best, in the interests of both parties, for the tenancy to be terminated sooner rather than later. In all of the circumstances, the Tribunal was satisfied that it was reasonable to grant the Order sought today.

3. The Tribunal unanimously determined that an order for recovery of possession of the Property could properly be granted at the CMD, there being no requirement for the application to be considered at an Evidential Hearing.

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.

N Weir

Legal Member/Chair

11 July 2025
Date