

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/24/4408

Re: Property at 1/1, 26 Nithsdale Drive, Glasgow, G41 2PN (“the Property”)

Parties:

Mr Nassar Yousuf, Mr Saleem Yousuf, 234 Tantallon Road, GLASGOW, G41 3JP; 1/1, 268 Tantallon Road, Glasgow, G41 3JP (“the Applicant”)

Mr Colin Wylie, 1/1, 26 Nithsdale Drive, Glasgow, G41 2PN (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for an eviction order should be refused.

Background

- 1 This is an application under Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Applicants sought an eviction order, citing antisocial behaviour by the Respondent.
- 2 The application was referred to a hearing following a case management discussion. The Respondent denied that he had behaved antisocially and denied that it was reasonable for an eviction order to be granted in light of his personal circumstances.

The hearing

- 3 The hearing took place on 21 May 2025 by teleconference. The Applicants both joined the call. The Respondent was present and represented by Ms McBride of Govan Law Centre.
- 4 The Tribunal had the following documents before it:-
 - (i) Form E application form and paper apart;
 - (ii) Title deeds confirmed the Applicants as the registered owners of the property;
 - (iii) Excerpt from the online landlord register confirming the Applicants' landlord registration;
 - (iv) Private residential tenancy agreement between the parties;
 - (v) Notice to leave dated 30 April 2024 and proof of delivery by recorded mail;
 - (vi) Section 11 notice and proof of delivery by email;
 - (vii) Statement of Anna Laurie;
 - (viii) Statement of Saleem Yousuf;
 - (ix) Tenancy reference from the Applicants regarding the Respondent;
 - (x) Email correspondence between Jackson Boyd Solicitors and Govan Law Centre;
 - (xi) Written submissions on behalf of the Respondent;
 - (xii) Email from Glasgow City Council to Govan Law Centre;
 - (xiii) The Applicant's further written submissions;
 - (xiv) Letter from Glasgow City Council; and
 - (xv) Photographs of the property.
- 5 As a preliminary matter, it came to light that the Applicants had understood that a letter from Glasgow City Council dated 5 February 2025 had been submitted to the Tribunal for consideration by their former solicitor. The documents had not, however, been assigned to this case as they were submitted under a case reference pertaining to a different application involving the parties. The Tribunal confirmed that Ms McBride had previously received the document in connection with that application and did not object to the letter being received, albeit late. The Tribunal therefore agreed to accept it as part of the Applicants' evidence.
- 6 The Tribunal proceeded to hear evidence from the parties. The following is a summary of the key elements of the evidence and does not constitute a verbatim account.

Mr Saleem Yousaf

- 7 Mr Yousaf gave evidence on behalf of the Applicants. He referred to the Respondent having claimed not to have met Mr Yousaf which was untrue. Mr Yousaf referred to the letter from Glasgow City Council, which clearly set out the incidents of antisocial behaviour at the property, and the statement from Anna Laurie who had been unable to attend the hearing due to work commitments. There was another neighbour who had complained to the

Applicants about the Respondent, but they did not want to come forward due to fear of recriminations. The situation was extremely frustrating. The Applicants had been more than reasonable. They had tried to assist the Respondent in obtaining alternative accommodation by providing him with a reference. The Respondent had submitted a homelessness application to Glasgow City Council, but had since withdrawn the application. The Applicants took the view that this meant he had found other accommodation, and had subsequently attended the property. The Respondent did not answer the door and the police were called. The Respondent came to the door upon police attendance and was cheeky towards Mr Yousaf.

- 8 Mr Yousaf explained that there had been damage to the communal entrance of the building in which the property was located. The Respondent and his visitors were believed to be responsible. A neighbour had also put a notice on the door to the building to advise that any drugs or chemicals found would be reported to the police. Mr Yousaf confirmed that the property was on the first floor of a four storey tenement building. The property factor had to get involved with repairing the damage to the communal areas, including repairing the secure entrance.
- 9 Mr Yousaf referred again to the letter from Glasgow City Council, which reflected the complaints from neighbours. The Applicants had offered to look into the matter, which had led to them visiting the property with the antisocial behaviour officer to meet with the Respondent in May 2024. The property was in a disgusting state, with damage evident. It was a mess, with cans of beer and bottles all over the place. Mr Yousaf referred to the photographs that had been submitted by the Applicants as evidence of this. The Respondent had denied the complaints of antisocial behaviour at the meeting. He had stated that he wanted to leave the property. Mr Yousaf confirmed that the police had also been in touch about the Respondent's conduct. The relationship between the parties had completely broken down. Mr Yousaf explained that the Respondent was verbally abusive and cheeky towards him. The Respondent had threatened to flood the downstairs property if the Applicants did not fix his washing machine. The downstairs property had since been flooded and the Respondent had refused to allow access to the property to the loss adjusters. He had been abusive and cheeky towards tradesmen that attended the property.
- 10 In response to questions from the Tribunal, Mr Yousaf advised that the incidents listed in the application which took place between 11 December 2023 and 5 February 2024 had been reported to the Applicants by the council. These were complaints that the council had received from neighbours. Mr Yousaf confirmed that he had received no further communication from the council since the letter of 5 February 2025. He had asked the council to provide this in support of the application. He confirmed that Ms Laurie had provided her statement after being approached by the Applicants' former solicitor. This would have been provided between September 2024 and February 2025. Mr Yousaf confirmed that there had been a further incident on 13 May 2025 in which the Respondent had been shouting and swearing at a plumber following the aforementioned flood. Mr Yousaf had then attended the property with contractors. The Respondent swore at Mr Yousaf and wouldn't let them in.

- 11 Mr Yousaf confirmed that the Respondent was the sole tenant of the property, but it appeared that there may be others staying there. The Respondent's son had previously resided with him. Mr Yousaf confirmed that there had been no problems with the tenancy up until 2023. The situation had deteriorated since then. The Respondent appeared to be associating with a bad crowd. There were reports of drug taking and intoxicated behaviour. In November 2022 Mr Yousaf had spoken with the Respondent to tell him that he was intending on selling the property. The antisocial behaviour began after the Respondent was informed of the Applicant's intent to sell.
- 12 On cross examination, Ms McBride queried why the reports of antisocial behaviour in the application did not reflect those in the letter from Glasgow City Council. Mr Yousaf referred to data protection issues. If the council had not provided the correct dates, then they had got it wrong. The fact was that there was antisocial behaviour at the property. Mr Yousaf acknowledged that the statement from Anna Laurie was unsigned, however it was on his former solicitor's letterhead. Ms McBride noted that the statement was fairly general, without specific dates and times of when the incidents took place, therefore it was not possible to line these up with the incidents in the letter from Glasgow City Council. Mr Yousaf stated that someone must have been in touch with the council to report antisocial behaviour. Ms Laurie was not the only complainer. She had given a summary of what she had experienced. It was clear that there was antisocial behaviour going on. Mr Yousaf confirmed that his solicitor had liaised with Ms Laurie in order to preserve a level of independence. Ms Laurie did not have Mr Yousaf's contact details. Ms Laurie resided in a flat on the ground floor. Mr Yousaf acknowledged that the damage to the communal areas had not been witnessed by anyone. However, it was reflected in the damage to the Respondent's property, which could be seen in the photographs. Mr Yousaf did not know if any further action had been taken by Glasgow City Council as a result of the Respondent's conduct. Mr Yousaf advised that he did not know if the police had attended the property in response to antisocial behaviour complaints.

Mr Nassar Yousaf

- 13 Mr Nassar Yousaf agreed with Mr Yousaf's evidence. He confirmed that he had met the Respondent on a number of occasions. He had contacted the Respondent when the flood occurred by telephone but a female answered who appeared to be under the influence of something. Mr Nassar Yousaf confirmed that the property had been redecorated before the Respondent moved in. It was now in a disgusting state.

The Respondent

- 14 Ms McBride led the Respondent through his evidence. He confirmed that his son had previously been the tenant of the property. The Respondent had moved there in 2017. Mr McBride had taken over the tenancy when his son left. The property had some disrepair and the carpets were second-hand. The Respondent referred to the photographs produced which were taken in May

2024. He had recently had an operation at that time on his shoulders which limited his movement. He could not pick things up and was dizzy. The Respondent acknowledged that his written representations indicated that an operation on his shoulder had been carried out in January 2025, but explained that this was a second operation. The Respondent denied causing any flooding at the property. He denied intentionally refusing access to contractors. The incidents listed in the application never happened. The Respondent had not been contacted by Glasgow City Council since the meeting in May 2024. He had not had any contact with Anna Laurie, who had moved into her property around two years ago. The Respondent confirmed that he did have music on in the garden, but only on a small speaker. It was not loud. The police had never attended his property regarding any reports of antisocial behaviour. The Respondent did not associate with the kind of people the Applicants were alleging. He had a couple of lady friends, and his son and grandchildren would visit on occasion. He had encountered people in the communal close but had chased them away. He did not know who they were. The Respondent had not caused damage to the communal areas. He had in fact sought to improve the garden by putting down chuckies and planting vegetables. The Respondent confirmed that his relationship with the Applicants had gone downhill. He was intimidated by them on occasion when they raised their voices.

- 15 In response to questions from the Tribunal the Respondent explained that he did not know why the Applicants had gotten the impression that he was leaving the property. He opposed the eviction order. He liked living at the property. He was too old to move on. He had been trying to get a flat elsewhere but there was nothing available. He had applied to both Southside Housing Association and Govanhill Housing Association. The Respondent agreed that there had been a flood from the kitchen sink but he had not shouted at the plumber.
- 16 The Applicants were given the opportunity to cross examine the Respondent, which consisted of them challenging many aspects of the Respondent's evidence. The Respondent did not know why the Applicants had received complaints. Someone was making it up. The Respondent would report antisocial behaviour if it was happening. The Respondent had not done any of the things that he had been accused of.

Closing submissions

- 17 The Applicants moved the Tribunal to grant an eviction order. They were extremely frustrated and wanted the property back. There was ample evidence of antisocial behaviour. The situation had been ongoing since November 2022 and the Applicants had been more than reasonable. It was costing them money and causing them stress. They wanted the Respondent removed.
- 18 Ms McBride asked the Tribunal to take into account the Respondent's submissions in response to the application. The Applicants alleged that the Respondent had engaged in relevant antisocial behaviour. However, neither of the Applicants had witnessed the incidents, nor had they received direct complaints from neighbours. The evidence was second-hand and should be given limited weight. Furthermore, the statement from Anna Laurie was

unsigned and there had been no opportunity to cross examine her on her complaints. Ms McBride highlighted the absence of specific dates. There was limited ability to correlate Ms Laurie's complaints with those listed in the application, and in the letter from Glasgow City Council. There was therefore limited to no corroborating evidence of Ms Laurie's claims. A number of the incidents referenced unidentified third parties. There was no evidence of the Respondent's involvement. The letter from Glasgow City Council highlighted three incidents of antisocial behaviour. 2 of these were made in excess of twelve months prior to the application being submitted. The council had confirmed in an email to Ms McBride that no formal enforcement action had been taken by the council. The Tribunal could put weight on that fact. There was no evidence to connect the Respondent with damage to the communal close. The condition of the Respondent's property was not relevant to the alleged antisocial behaviour. There was insufficient evidence to establish that the Respondent had engaged in relevant antisocial behaviour. Ms McBride pointed out that an eviction order would render the Respondent homeless. The Respondent opposed the order being granted.

- 19 Following the hearing the parties submitted further representations to the Tribunal for consideration. For the avoidance of doubt those documents have not been considered by the Tribunal as they were received after the hearing had concluded, and parties were therefore unable to address the documents in their evidence.

Findings in fact

- 20 The Applicants are the landlords, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement between the parties, which commenced on 1 November 2020.
- 21 The Respondent has occupied the property since 2017. The Respondent's son was the previous tenant of the property.
- 22 On 1 May 2024 the Applicants sent the Respondent a notice to leave by recorded delivery mail. The notice to leave stated that an application would not be made to the Tribunal any earlier than 1 June 2024.
- 23 On 19 April 2024, the Applicants sent the local authority a notice under section 11 of the Homelessness etc (Scotland) Act 2003.
- 24 Complaints of antisocial behaviour have been made to Glasgow City Council by neighbours regarding the property.
- 25 On 17 February 2023 a complaint was made to Glasgow City Council regarding music, shouting and arguing at all times under 4am. On 21 March 2023 Glasgow City Council wrote Mr Nassar Yousaf regarding the complaint. On 23 March 2023 Ms Pamela Millar of Glasgow City Council spoke to Mr Nassar Yousaf by telephone regarding the complaint.

- 26 On 25 July 2023 a complaint was made to Glasgow City Council regarding loud music, shouting, arguing and slamming doors at all times till the early hours. The council investigated the complaint in line with antisocial behaviour legislation and associated guidance.
- 27 On 27 February 2024, a complaint was made to Glasgow City Council regarding loud music, shouting, arguing and slamming doors at all times until the early hours. The council emailed Mr Nassar Yousaf regarding the complaints. On 4 April 2024 Ms Pamela Millar of Glasgow City Council spoke to Mr Saleem Yousaf regarding the complaint.
- 28 On 14 May 2024, Ms Pamela Millar of Glasgow City Council and Mr Saleem Yousaf visited the Respondent at the property to discuss the antisocial behaviour complaints.
- 29 No formal enforcement action had been taken against the Respondent by Glasgow City Council following the complaints of antisocial behaviour.
- 30 The relationship between the Applicants and Respondent has significantly deteriorated.

Reasons for decision

- 31 The Tribunal was satisfied that the Applicants had given the Respondent a notice to leave that complied with the statutory requirements of the 2016 Act. The Tribunal was also satisfied that the Applicants had given the local authority notice under section 11 of the Homelessness etc (Scotland) Act 2003 at the time of raising this application. The Tribunal therefore went on to consider whether ground 14 had been met in this case.
- 32 The Tribunal considered the wording of ground 14 of schedule 3 of the 2016 Act:-
- “(1) It is an eviction ground that the tenant has engaged in relevant anti-social behaviour.*
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—*
- (a) the tenant has behaved in an anti-social manner in relation to another person,*
- (b) the anti-social behaviour is relevant anti-social behaviour,*
- (ba) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact, and*
- (c) either—*
- (i) the application for an eviction order that is before the Tribunal was made within 12 months of the anti-social behaviour occurring, or*

(ii) the Tribunal is satisfied that the landlord has a reasonable excuse for not making the application within that period.

(3) For the purposes of this paragraph, a person is to be regarded as behaving in an anti-social manner in relation to another person by—

(a) doing something which causes or is likely to cause the other person alarm, distress, nuisance or annoyance,

(b) pursuing in relation to the other person a course of conduct which—

(i) causes or is likely to cause the other person alarm, distress, nuisance or annoyance, or

(ii) amounts to harassment of the other person.

(4) In sub-paragraph (3)—

- *“conduct” includes speech,*
- *“course of conduct” means conduct on two or more occasions,*
- *“harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997.*

(5) Anti-social behaviour is relevant anti-social behaviour for the purpose of sub-paragraph (2)(b) if the Tribunal is satisfied that it is reasonable to issue an eviction order as a consequence of it, given the nature of the anti-social behaviour and—

(a) who it was in relation to, or

(b) where it occurred.

(6) In a case where two or more persons jointly are the tenant under a tenancy, the reference in sub-paragraph (2) to the tenant is to any one of those persons.”

- 33 The onus is upon the Applicants to produce evidence to establish that ground 14 has been met. The Tribunal considered that the Applicants have failed to do so in this case.
- 34 The application narrates five reported antisocial incidents. Four of these were reported in December 2023, with the fifth having been reported in February 2024, over a year ago. The letter from Glasgow City Council includes three complaints of antisocial behaviour on 17 February 2023, 25 July 2023 and 27 February 2024. The Tribunal was therefore unclear on the source of the complaints narrated in the application. Mr Yousaf believed these had been brought to his attention to by Glasgow City Council, but the council’s letter of 5 February 2025 did not reflect this. There was no evidence to establish the source of the complaints. Mr Yousaf had indicated that this may have been an error on the council’s part, however the Tribunal found that difficult to accept. It could be reasonably inferred from the wording of the letter of 5 February 2025 that its content had been drawn from the council’s record of antisocial behaviour complaints at the property.

- 35 The Tribunal considered the other evidence before it. Only the Applicants had attended the hearing to give evidence. They themselves were unable to speak directly to having witnessed the antisocial behaviour complained of in the application, although they did speak as to their own interactions with the Respondent, and his recent conduct towards contractors. The Tribunal also had regard to the statements from Mr Saleem Yousaf, and from Anna Laurie, which were general in their terms. Given the lack of specific dates and times for the behaviour complained of in Ms Laurie's statement the Tribunal was unable to correlate these with the complaints narrated in the application. It was not clear when the incidents had occurred, therefore the Tribunal was unable to make any specific findings in fact based on Ms Laurie's statement. It was regrettable that Ms Laurie had not attended the hearing to speak to the statement, which was unsigned and not in affidavit form. The Tribunal could give little weight to the statement as a result.
- 36 The Tribunal therefore concluded that there was insufficient evidence before it to substantiate the complaints narrated in the application, but it was able to find that three complaints of antisocial behaviour had been made in respect of the incidents narrated in the letter from Glasgow City Council.
- 37 The Tribunal accepted that the relationship between the parties had broken down significantly. That was clear from the evidence from both parties at the hearing. The Applicants sought to lead evidence regarding various alleged breaches of the Respondent's tenancy obligations, and his attitude towards them, however that was not the substance of this application. In terms of the evidence before the Tribunal, there had been no complaints of antisocial behaviour recorded against the property since February 2024. The complaints had been investigated by the council and they had determined that no formal enforcement action was required. Whilst the Tribunal accepted that the condition of the property had deteriorated, as evidenced by the photographs produced by the Applicants, this was not the ground for possession relied upon in the application. The Tribunal had to consider the reasonableness of making an eviction order on account of the alleged antisocial behaviour in this case. The Tribunal found it difficult to conclude that, in circumstances where the last recorded complaint was made over a year ago, it would be reasonable to deprive the Respondent of his home.
- 38 Taking the above into account the Tribunal was not satisfied based on the evidence before it that it was reasonable to make an eviction order and that ground 14 had been met in this case. The application is therefore refused.

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.

Ruth O'Hare

24 June 2025

Legal Member/Chair

Date
