



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/25/0039

Re: Property at Flat 1/2, 142 Oxford Street, Glasgow, G5 9JG (“the Property”)

Parties:

Mrs Nasreen Ahmad, 35A Thorn Road, Bearsden, G61 4BS (“the Applicant”)

Mr Gursel Onay, Mrs Songul Onay, Flat 1/2, 142 Oxford Street, Glasgow, G5 9JG (“the Respondent”)

Tribunal Members: Ruth O’Hare, Legal Member and Mary Lyden, Ordinary Member

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that ground 3 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) had been met and it would be reasonable to make an eviction order if execution of the order is suspended for a period of three months.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act with execution of the order suspended for a period of three months from the date of this decision.

Background

- 1 This is an application under section 51 of the 2016 Act and Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant relied upon ground 3 as the ground for possession, stating that she intended to refurbish the property.
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 27 June 2025. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondents by sheriff officers.

- 3 Both parties were invited to make written representations. No written representations were received from either party in advance of the CMD.

The CMD

- 4 The CMD took place by teleconference on 27 June 2025 at 2pm. The Applicant was represented by Mr Kieran Carter of Robb Residential. The second Respondent joined the call and was represented by her son, Mr Khan Onay. Mr Onay confirmed that he was also appearing on behalf of his father, the first Respondent.
- 5 The Tribunal had the following documents before it:-
- (i) Form E application form;
 - (ii) Title sheet confirming the Applicant as the registered owner of the property;
 - (iii) Excerpt from the online landlord register confirming the Applicant's landlord registration;
 - (iv) Private residential tenancy agreement between the parties;
 - (v) Notice to leave and proof of delivery;
 - (vi) Section 11 notice to Glasgow City Council and proof of delivery;
 - (vii) Email from the Applicant authorising Robb Residential to represent him in the Tribunal proceedings; and
 - (viii) Quotation for refurbishment by ProFix Scotland Ltd.
- 6 The Tribunal explained the purpose of the CMD and the legal test under ground 3 of schedule 3 of the 2016 Act. The Tribunal proceeded to hear from parties on the application.
- 7 Mr Carter confirmed that the Applicant sought an eviction order. He intended to refurbish the property as part of a planned upgrade of his rental properties. Mr Carter managed around 10 properties on the Applicant's behalf. The works would entail removing the bathroom and kitchen, therefore the Respondents would not have any bathing or cooking facilities. The Applicant felt the only route therefore was to seek an eviction order. Mr Carter confirmed that the Applicant intended to re-let the property once the refurbishment was complete. Mr Carter explained that the Respondents had been fantastic tenants and he would not hesitate in re-letting to them, but he had been unable to find a suitable property. The Applicant had no vacant properties. In response to questions from the Tribunal, Mr Carter advised that it would not be practicable for the Respondents to stay in the property whilst the refurbishment was ongoing. This had been carefully considered and deemed unworkable. The Applicant had concerns that further work may be required to the property once the refurbishment commenced. There had been historic leaks that could pose issues. Mr Carter reiterated that if alternative accommodation had been available he would have offered this to the Respondents.
- 8 The Tribunal heard from Mr Onay. He explained that the Respondents had been actively looking for housing with assistance from Mr Onay and his brother. They had not yet been offered a property. They had spoken with both the

council and local housing associations. The council had advised them that they would be offered temporary accommodation as a minimum if an eviction order was granted. The Respondents were just waiting for a property. The housing association had been unable to confirm how long it would take. Mr Onay confirmed that he resided in the property with his parents, the Respondents. His mother and father both had health issues. His father was partially sighted. They were both born in 1966. The first Respondent and Mr Onay were both employed. Mr Onay agreed that the property was in a poor condition and required refurbishment. There had been issues with mould, which was affecting his mother's asthma. She also struggled with the stairs to the property. The Respondents wanted to relocate to a first floor flat in the area but needed more time.

- 9 The Tribunal asked Mr Carter for his comments on a potential suspension of the execution of the order, if the Tribunal were minded to grant same. Mr Carter stated that he did not think the Applicant would have any issues. The Respondents were up to date with their rent and didn't cause any problems. Mr Carter believed the Applicant would be happy to give them a bit more time to find a property.
- 10 The Tribunal adjourned the CMD to deliberate, at which point the parties left the call, before resuming the proceedings and confirming the outcome.

Findings in fact

- 11 The Applicant is the owner and landlord of the property. The Applicant let the property to the Respondents in terms of a private residential tenancy agreement, which commenced on 28 February 2020.
- 12 The tenancy between the parties is a private residential tenancy as defined by section 1 of the 2016 Act.
- 13 The Applicant has given the Respondents a notice to leave which includes ground 3 of schedule 3 of the 2016 Act.
- 14 The Applicant has sent a notice under section 11 of the Homelessness etc (Scotland) Act 2003 to Glasgow City Council.
- 15 The Applicant intends to refurbish the property. The property is currently in a poor state of repair. The Applicant has obtained a quote from ProFix Scotland for the required works, which will include the replacement of the kitchen and bathroom, the division of the kitchen and living room, the removal and replacement of all flooring, the reconfiguration of the fire alarm system, and redecoration.
- 16 It would be impracticable for the Respondents to continue to occupy the property given the nature of the refurbishment intended by the Applicant.

- 17 The Applicant intends to refurbish the property as part of a planned upgrade to the properties in his rental portfolio.
- 18 The Respondents have applied to local housing associations for rehousing. The Respondents have also sought advice from the local authority.
- 19 The Respondents wish to move from the property. The Respondents both have health issues. In particular, the second Respondent has mobility issues and has difficulty managing the stairs.
- 20 The Respondents reside in the property with their adult son. The first Respondent and the Respondents' son are both in employment.
- 21 The Respondents will be offered temporary accommodation by the local authority if the Tribunal makes an eviction order.

Reasons for decision

- 22 The Tribunal was satisfied it had sufficient information before it to make relevant findings in fact and reach a decision on the application having regard to the application paperwork and the submissions heard at the CMD. In terms of Rule 17(4) and Rule 18(1) of the Rules the Tribunal determined that it could make a decision at the CMD as there were no issues to be resolved that would require a hearing and the Tribunal was satisfied that to make a decision would not be contrary to the interests of the parties.
- 23 Based on the application paperwork the Tribunal was satisfied that the tenancy between the parties was a private residential tenancy, and that the Respondents had been given a notice to leave that complied with the provisions of the 2016 Act. The Tribunal was also satisfied that the Applicant had given the local authority notice under section 11 of the Homelessness etc (Scotland) Act 2003 at the time of making this application. The Tribunal therefore considered whether ground 3 of schedule 3 of the 2016 Act was met in this case.
- 24 The Tribunal considered the wording of ground 3:-

“(1) It is an eviction ground that the landlord intends to carry out significantly disruptive works to, or in relation to, the let property.

(2) The First-tier Tribunal may find that the eviction ground named by sub-paragraph (1) applies if—

(a) the landlord intends to refurbish the let property (or any premises of which the let property forms part),

(b) the landlord is entitled to do so, ..

(c) it would be impracticable for the tenant to continue to occupy the property given the nature of the refurbishment intended by the landlord, and

(d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

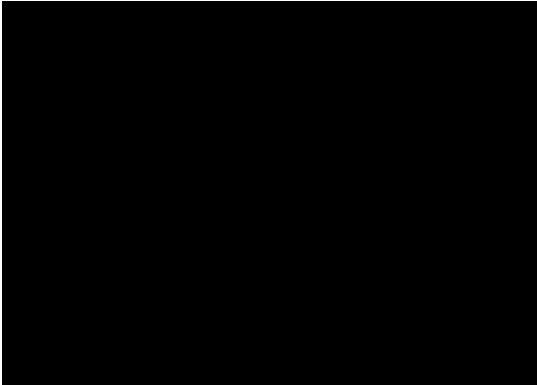
(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(a) includes (for example)—

(a) any planning permission which the intended refurbishment would require, (b) a contract between the landlord and an architect or a builder which concerns the intended refurbishment.”

- 25 The Tribunal accepted that the Applicant intends to refurbish the property, and that he is entitled to do so as the registered owner. The Tribunal relied primarily on the quotation for the works from ProLet Scotland, along with Mr Carter's submissions at the CMD. The Respondents did not dispute the Applicant's intention, and were in agreement that the property required upgrading. The Tribunal also accepted that it would be impracticable for the Respondents to remain in the property due to the nature of the works, which were extensive and would involve a full replacement of the bathroom and kitchen.
- 26 The Tribunal therefore went on to consider whether it was reasonable to make an eviction order, which required the Tribunal to identify those facts relevant to reasonableness and determine which carried the most weight.
- 27 The Tribunal took into account the Applicant's reasons for refurbishing the property, namely to provide a higher standard of housing and address ongoing issues of disrepair. The Respondents were in agreement that the works were required. The Applicant, as the heritable owner of the property, was entitled to proceed with the works if he wished to do so. The Tribunal gave significant weight to this.
- 28 The Tribunal carefully considered the Respondents' circumstances. Whilst the Tribunal had some concerns about the impact of eviction upon them in light of their health conditions, ultimately the Tribunal gave most weight to the fact that they did not wish to remain in the property. It was no longer suitable for their needs. They had been proactively applying for alternative accommodation, and were simply waiting for another property to become available. The Tribunal therefore considered that it would be reasonable to make an eviction order provided the execution of the order was delayed for a period of time to give the Respondents sufficient opportunity to secure social housing. Whilst the Respondents had stated that the local authority would offer them temporary accommodation by the local authority if an eviction order was granted, in light of the Respondents' health conditions the Tribunal considered it would be in their best interests to allow some additional time for them to secure a permanent home that suits their needs.
- 29 Accordingly, having considered the above factors as relevant to the issue of reasonableness, the Tribunal determined that the balance weighed in favour of making an eviction order in this case with execution of the order suspended for three months.
- 30 The decision of the Tribunal was unanimous.

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.



7 July 2025

Date