

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision and Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014 and s 36 of the Housing (Scotland) Act 1988.**

**Chamber Ref: FTS/HPC/CV/21/0383 and FTS/HPC/PR/21/0384**

**Re: Property at 21 Strathmore Gardens, Glasgow, G73 5JF (“the Property”)**

**Parties:**

**Mr Jagjiwan Jhammat, Mrs Prabhjot Kaur, Legal Services Agency Ltd, Fleming House, 134 Renfrew Street, Glasgow, G3 6ST (“the Applicant”)**

**Mr Harry Morris, 3/1 177 Clarkston Road, Glasgow, G44 3BS (“the Respondent”)**

**Tribunal Member:**

**Andrew McLaughlin (Legal Member) and Elizabeth Dickson (Ordinary Member)**

**Summary of Discussion**

[1] The above Applications called as a Case Management Discussion (“CMD”) at 10am on 2 May 2025. The Applicants were personally present and confirmed that they had dispensed with legal representation. The Respondent was represented by Mr Patrick Campbell, Solicitor.

[2] The Tribunal had convened the CMD following on from the decision of the Upper Tribunal dated 2 July 2024 (“The UT Decision”) which remitted certain parts of the Applications back to the Tribunal for further consideration. The Tribunal will refer to the decision which was appealed as “The Original Decision”.

[3] The Tribunal determined that all parties would be allowed until 30 May 2025 to submit representations setting out how each party considered the Tribunal ought to interpret and apply the guidance and instruction set out in the UT Decision.

[4] The Tribunal explained that no further evidence would be heard and that any supplementary decision to be made would be based on the evidence already heard as set out in the Original Decision.

[5] Thereafter the Tribunal explained that it would issue a supplementary decision that actioned the instructions of the UT Decision.

[6] The Tribunal received submissions from both the Applicants and Mr Oliver, Advocate on behalf of the Respondent on 30 May 2025. The Tribunal is grateful to all for those submissions. The Tribunal notes that the Applicants' submissions refer to the Original Decision as demonstrating "*contextual misunderstanding of cultural norms*" and suggest that the Original Decision lacked "*cultural sensitivity*" which "*reinforce harmful stereotypes*". The Tribunal however notes no such finding was made in the UT Decision and accordingly the findings of the Tribunal regarding credibility in the Original Decision remain undisturbed. The Tribunal must simply limit its consideration to errors of law identified in the UT Decision.

[7] Mr Oliver summarises the key findings of the UT Decision.

1. It held that this Tribunal had erred in law by not separately considering certain aspects of the Applicants' claim for loss of moveable property (para [31]).
2. It held that the error related to the omission by this Tribunal to expressly deal with the Applicants' claim for loss of medical equipment and toys which whilst not mentioned in the Applicants' Schedule of Losses had been referred to in the Papers Apart to each Application (paras [28]). In the Original Decision, this Tribunal had rejected the applicants' claim for loss of moveable property insofar as it was contained in their Schedule (Production 8, Applicant First Inventory) but had not individually addressed the claim for loss of medical equipment or toys being items not contained in the Schedule.
3. It directed that the parts of the Applicants' claim for loss of "*toys*" or "*medical equipment*" be remitted to this Tribunal for a separate determination since those items were not caught by the s.36(5) prohibition on double recovery and had not been subject to a specific determination by this Tribunal in the Original Decision (paras [31], [32] and [34])

4. It held that this Tribunal's rejection of the applicant's claim for £57,058.64, being those items set out in the Schedule were unaffected (para [33]). So too was this Tribunal's finding in respect of damages under s.36 in the amount of £22,000 (*ibid*).

[8] The Tribunal agrees with the submissions of Mr Oliver which neatly summarise the UT Decision and set out what is expected of this Tribunal.

[9] Paragraph [17] to [26] of the Upper Tribunal Decision sets out the statutory provisions, the nature of the claim advanced on behalf of the Applicants including paragraphs 17 of their Papers Apart to each claim, and the Original Decision including in particular finding-in-fact-and-law v, and its conclusion that this Tribunal's decision contained "*no analysis of the content of the paragraphs 17 in each of the papers apart*" (para [26]).

[10] From paragraph [27], it is clear that the Upper Tribunal concluded that this Tribunal did not err in treating the Applicants' non-property claims as being precluded by the s.36(5) prohibition.

[11] Moving on to paragraph [28], it is equally clear that the Tribunal concluded, however, that any claim for loss of physical moveable property (insofar as it is competent and within the jurisdiction of this Tribunal) is not caught by the s.36(5) prohibition.

[12] The Tribunal agrees that paragraph [28] is key to an understanding of the scope of this Tribunal's remit and how the UT Decision is to be interpreted and be applied. After coming to the view that the claims for inconvenience, homelessness, increased travel, etc are caught by the s.36(5) prohibition, the UT Decision goes on to state:

*"[28] The same cannot be said for the physical moveable property mentioned in each of paragraphs 17 - medical equipment, religious items, photographs, jewellery and toys. It might be said that these ought to have been included in the schedule that amounted to a claim for £57,058.64. There were items of jewellery in that schedule together with photographs. Religious photos and books are also on the schedule. Neither medical equipment nor toys are mentioned."*

[13] In the Original Decision, the Tribunal rejected the Applicants' claim insofar as it concerned the items of property mentioned in the Schedule. It did so on the facts (reference is made to findings-in-fact ix and x of the Original Decision and the 4<sup>th</sup> bullet-pointed conclusion on p19 thereof). Therefore, the Upper Tribunal have highlighted at paragraph [28] that, in addition to the item's contained in the Schedule, the Paper Apart relative to each application included averments that the Applicants had lost "*medical equipment*" and "*toys*".

[14] The UT Decision at paragraphs [30] and [31] when read in conjunction with paragraph [28], would suggest that the Tribunal erred by failing to make “*separate determinations*” in respect of each item of moveable property alleged in the Papers Apart to have been lost:

*“[30].... However, those parts of paragraph 17 in the papers apart in each of the applications go on to deal with claims for loss of moveable property ought to have been the subject of separate determinations.*

*[31] Those parts of the claim forms ought to have been the subject of a decision from the FTS. There has been no individual consideration of them. That failure amounts to an error of law.”*

[15] The Tribunal again accepts Mr Oliver’s position that the error of law that the UT Decision found that this Tribunal fell into was to reject the Applicants’ claim for moveable property insofar as it included items referred to on the Schedule but not separately to consider the claims for “*medical equipment*” and “*toys*” which were mentioned in paragraph 17 of each of the Papers Apart but not included in the Schedule. By not considering those items that were not included in the Schedule separately, this Tribunal may have failed to exhaust its jurisdiction since a part of the Applicants’ claim was not determined.

[16] Mr Oliver points out that there is no suggestion anywhere that there were any other items of moveable property which did not fall within the scope of the s.36(5) prohibition that the Tribunal did not address. It is only items that are not within the s.36(5) prohibition that are remitted to this Tribunal (para [34] of the UT Decision). As Mr Oliver notes, the Tribunal’s previous rejection of the Applicants’ claim for £57,058.64 (being the sum of the items listed in the Schedule) on the facts was not disturbed by the UT Decision (para [33]).

## **Conclusion**

[17] The Tribunal concludes that in order to apply the UT Decision –this Tribunal is to consider those parts of the Applicants’ claim concerning the “*medical equipment*” and “*toys*” which are referred to in the Papers Apart but not referred to in the Schedule. The Tribunal agrees with Mr Oliver’s submission that it can do so on the basis of the evidence already heard.

[18] The Tribunal considers that there is no credible or reliable evidence that the Applicants lost any toys or medical equipment as a result of the eviction. The Tribunal found that the evidence presented by the Applicants in that regard was wholly incredible and unreliable for the reasons set out in the Original Decision. The Tribunal does not accept that toys or medical equipment were lost by the Applicants.

[19] Having considered the UT Decision and the submissions of both parties and having considered matters of new, the Tribunal decides as follows.

## Disposal

[20] The Tribunal makes the further following findings:

1. (a) A finding of fact – *“There is no credible or reliable evidence before the Tribunal that the Applicants lost any toys or medical equipment as a result of the eviction”.*
2. (b) A finding-in-fact-and-law - *“The Applicants’ claim for loss of medical equipment and toys in each claim is rejected”*
3. (c) In any event a finding-in-law as follows:

*“In any event, any loss or damage to the Applicants’ moveable property anent toys or medical equipment, does not fall within the scope of s.36(3) of the 1988 Act and therefore is not within the scope of any losses that can competently be recovered by a claim under Rule 69 such as claim 0383”*

[21] Having made such findings, the Tribunal concludes that no further award is justified.

**NOTE: This document is not confidential and will be made available to other First-tier Tribunal for Scotland (Housing and Property Chamber) staff, as well as issued to tribunal members in relation to any future proceedings on unresolved issues.**

Andrew McLaughlin

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Legal Member

22 July 2025  
Date