

Housing and Property Chamber

First-tier Tribunal for Scotland



Decisions with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 51 and 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Refs: FTS/HPC/EV/25/0486 and FTS/HPC/CV/25/0489

Re: Property at 11b Fleurs Avenue, Pollokshields, Glasgow, G41 5AR (“the Property”)

Parties:

Mrs Susanne Farrell, residing at 30a Rowan Road, Dumbreck, Glasgow, G41 5BZ (“the Applicant”) and

Bannatyne, Kirkwood France & Co, 16 Royal Exchange Square, Glasgow, G1 3AG (“the Applicant’s Representative”) and

Mr Bakhat Bashir Malik, residing at 11b Fleurs Avenue, Pollokshields, Glasgow, G41 5AR (“the First Respondent”) and

Mrs Shamim Malik, residing at 11b Fleurs Avenue, Pollokshields, Glasgow, G41 5AR (“the Second Respondent”)

Tribunal Members:

**G McWilliams- Legal Member
A Khan - Ordinary Member**

Decisions

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines as follows:

- 1) To grant an eviction order; and**
- 2) To grant an order for payment to the Applicant, Mrs Susanne Farrell, by the Respondents, Mr Bakhat Bashir Malik and Mrs Shamim Malik, jointly and severally, of the sum of £3,425.00.**

Background

1. These are Applications for an eviction order in terms of Rule 109 (Application for an eviction order) and for a payment order in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the 2017 Rules").

Case Management Discussion on 8th August 2025

2. A Case Management Discussion ("CMD") proceeded by remote teleconference call at 10.00am on 8th August 2025.
3. The Applicant's Representative's Mr J Deane attended. Both Respondents attended with their son, Mr K Malik. The Respondents confirmed that their son would discuss matters on their behalf at the CMD.
4. Mr Deane referred to the Applications and subsequent e-mails which his office had sent to the Tribunal's office, including the updated, amended rent statement dated 24th July 2025. He stated that the Applicant Mrs Farrell has a mortgage account, with a current balance of £137,000.00, in respect of the Property. He said that Mrs Farrell's monthly mortgage repayment amount exceeds the current monthly rent amount, of 925.00. Mr Deane, with specific reference to the amended rent statement, stated that Mr and Mrs Malik have not paid full monthly rent due since July 2024. Mr Deane asked the Tribunal to grant an eviction order and also an order for Mr and Mrs Malik's payment to Mrs Farrell of the outstanding rent arrears of £3,425.00, with interest.
5. Mr K Malik acknowledged that Mr and Mrs Malik had an affordability problem in respect of their tenancy of the Property. He said that this began when their Discretionary Housing Benefit was not renewed in July 2024. Mr K Malik stated that Mr and Mrs Malik now receive Housing Benefit in the sum of £640.00 per month. He said that Mr and Mrs Malik's other income is derived from Attendance Allowance and Disability Benefits and that Mr Malik has mobility problems. Mr K Malik stated that Mrs and Mrs Malik, with his assistance, have applied to Glasgow City Council ("GCC") and various local Housing Associations for an alternative social housing tenancy which will be more suitable and affordable for them. He acknowledged that it was not sustainable for Mr and Mrs Malik to remain in the Property in the longer term. He said that GCC and the Housing Associations have been waiting for Mr and Mrs Malik to confirm that an eviction order has been granted and the date for eviction. Mr K Malik acknowledged that the grant of an eviction order may give Mr and Mrs Malik priority in respect of their applications for alternative housing. He stated that Mr and Mrs Malik hoped to find monies to pay the monthly rental amount due of £925.00 and to settle the arrears of rent owing to Mrs Farrell. He said that Mr Malik may be able to use savings monies which he had set aside to buy a mobility scooter, and also for funeral costs, to pay towards the arrears.

Findings in Fact and Law and Reasons for Decisions

6. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) the Tribunal is to issue an eviction order under a private residential tenancy (“PRT”) if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
7. Schedule 3 (12) (1) to the 2016 Act provides that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.
8. Section 71 of the 2016 Act provides as follows:
 - (1) In relation to civil proceedings arising from a private residential tenancy-
 - (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
 - (b) a sheriff does not have competence or jurisdiction.
 - (2) For the purposes of subsection (1), civil proceedings are any proceedings other than-
 - (a) the prosecution of a criminal offence,
 - (b) any proceedings related to such a prosecution.
9. Accordingly, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicant) for an eviction order and order for payment of unpaid rent against tenants (such as the Respondents) in respect of a tenancy such as the tenancy agreement of the parties.
10. Having considered all of the Applications papers and the oral submissions of Mr Deane and Mr K Malik, the Tribunal finds in fact, on a balance of probabilities, that Mrs Farrell, through her Representative, has provided the Tribunal, in her Application for an eviction order, with copies of the parties’ PRT, the Notice to Leave (“NTL”) served on Mr and Mrs Malik and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice which was intimated to Glasgow City Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied. The NTL, and the Application for an eviction order, proceed in terms of Schedule 3 (12) in the 2016 Act. The Tribunal further finds in fact that when the NTL was served on Mr and Mrs Malik, on 22nd October 2024, Mr and Mrs Malik had been in rent arrears for three consecutive months, and that when both Applications were lodged with the Tribunal’s office, on 5th February 2025, Mr and Mrs Malik were in further rent arrears. Mr and Mrs Malik have not paid full rent to Mrs Farrell since July 2024 and are currently in rent arrears in the sum of £3,425.00. Mr and Mrs Malik have not been able to afford the monthly rent due for the Property since July 2024 and they have applied for alternative social housing.
11. In making its findings in fact the Tribunal relied on the documentation within the Applications and the oral submission of Mr Deane, the terms of which were

consistent with the terms of the relevant documentation, as well as the oral submission of Mr K Malik.

12. Accordingly, the Tribunal find in law that the ground in Schedule 3 (12)) of the 2016 Act is met as the Respondents Mr and Mrs Malik have been in rent arrears for three or more consecutive months. The Tribunal also find that it is reasonable that an eviction order be granted as this will allow Mrs Farrell, and Mr and Mrs Malik, to bring their PRT to an end to limit the accrual of further rent arrears. The grant of the order should also assist Mr and Mrs Malik in having their applications for alternative housing progressed as a matter of priority, in particular given their health conditions. The Tribunal further find that it is reasonable that the enforcement date in respect of the eviction order be deferred until 10th November 2025 to allow sufficient time for Mr and Mrs Malik to have their applications for alternative social housing processed and decided upon. Mr K Malik said that Mr and Mrs Malik will endeavour to make payment of the full monthly rent owing, as well as make other payments towards the rent arrears owing, whilst they remain resident in the Property and they are encouraged to do so.
13. The Tribunal also find in law that Mr and Mrs Malik are obliged to pay rent to Mrs Farrell, in terms of the parties PRT, and, having not done so consistently, are currently in rent arrears in the sum of £3,425.00 and are due to pay that sum to her. The Tribunal therefore find that Mrs Farrell is entitled to an order for Mr and Mrs Malik's payment to her of the sum of £3,425.00. The Tribunal further find that, given the circumstances of this case, whereby Mr and Mrs Malik have been paying rent, but not in the full monthly sum due, are actively looking to obtain alternative accommodation, and in the meantime proposing to pay full monthly rent due as well as make payments towards arrears, it is not fair and reasonable to apply interest to the order for payment.

Decisions

14. Therefore, the Tribunal makes an order for eviction of the Respondents, Mr Bakhat Bashir Malik and Mrs Shamim Malik, from the Property at 11b Fleurs Avenue, Pollokshields, Glasgow, G41 5A, and also, an order for payment to the Applicant, Mrs Susanne Farrell, by the Respondents, Mr Bakhat Bashir Malik and Mrs Shamim Malik, jointly and severally, of the sum of £3,425.00.

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.

Gerald McWilliams

G McWilliams

8th August 2025
