

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)
under Section 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/24/1570

Re: Property at 61 Maxwell Gardens, Glasgow, G41 5JR (“the Property”)

Parties:

Ms Shabana Ahmad, 158 Maxwell Drive, Glasgow, G41 5AF (“the Applicant”)

Ajaz Cheema Ahmad, 61 Maxwell Gardens, Glasgow, G41 5JR (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order subject to the provision that it may not be enforced before 20 October 2025.

Background

[2] The Applicant seeks an Eviction Order under ground 4 of Schedule 3 of the Act. The Application is accompanied by a copy of the tenancy agreement and the relevant notice to leave with proof of service. The relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 is also produced. The Application had previously called for a Case Management Discussion and the Tribunal made certain case management orders in the form of Directions and continued the Application for evidence to be heard at a Hearing. The Application was opposed on the basis that it was said that the ground relied on was not genuine and that it would also not be reasonable to make an Eviction Order.

The Hearing

[3] The Application called for a Hearing by conference call at 10 am on 16 July 2025. The Applicant was represented by her daughter, Ms Sehrish Ahmad. The Respondent was present together with his representative, Ms McBride of Govan Law Centre. There was an Urdu interpreter present for the benefit of the Respondent. Every word that was said in English was interpreted into Urdu and the Respondent spoke exclusively in Urdu which was interpreted into English. Neither party had any preliminary matters to raise and both were content that the Tribunal start hearing evidence. Each party had the opportunity to cross examine the other and at the conclusion of evidence, each party had the opportunity to make closing submissions. The Tribunal comments on the evidence heard as follows.

The Applicant's evidence- Ms Sehrish Ahmad

[4] Mr Ahmad explained that she was content to proceed as the only witness on behalf of the Applicant and that the Applicant herself would not give evidence. Ms Ahmad explained that the Applicant understood the nature of the Hearing and was content that the sole source of parole evidence in support of her Application would come from Ms Sehrish Ahmad.

[5] Ms Ahmad explained that she was the owner of the Property until April 2022. The tenancy until that point had been between the Respondent and Ms Ahmad. Ms Ahmad then transferred the Property (and the landlord's interest in the tenancy) to the Applicant in April 2022. This was done because the Applicant and her husband had wanted to move into the Property. The Applicant pointed out that the Applicant "*had no agreement or paperwork with the tenant*" by which Ms Ahmad appeared to mean that the Applicant had acquired the landlord's interest rather than create the initial tenancy.

[6] Ms Ahmad explained why the Applicant wanted to move into the Property. The main reason was for financial and health related reasons. Ms Ahmad made reference to the cost of living and stated that the Applicant cannot afford the running costs of the five bedroom property in which she currently resides. Ms Ahmad made reference to the council tax bills and the costs of maintaining the large front and back garden. She also explained that her father recently went through knee replacement surgery and that he is 80 years old and cannot walk properly. The Applicant and her husband want to move into a smaller house that is more suitable for their needs. Ms Ahmad also explained that the Applicant's own health has deteriorated and that her memory is declining. Ms Ahmad explained that she is the Applicant's main carer and that she lives one minute away from the Property. This would obviously be extremely convenient for the Applicant's care needs. Her family and grandchildren all live in the same area.

[7] Ms Ahmad's position was that the Respondent was overcrowding the Property by occupying it with seven adults. The Property only has two bedrooms. Ms Ahmad also stated that she believed that the Respondent had relatives from Pakistan staying in the

Property. Ms Ahmad pointed out that the tenancy was in the Respondent's sole name and that when he signed the tenancy he made no mention of a wife and children moving into the Property.

[8] Ms Ahmad challenged the efforts made by the Respondent to find alternative accommodation. She questioned whether they had made sustained efforts to find accommodation via housing associations and on the private rental market. She queried whether the Respondent was unnecessarily narrow in the search area that he and his family would be prepared to move into. She also expressed skepticism about whether the Respondent had made any effort to consider alternative private lets. Ms Ahmad asked the Tribunal to conclude that the Respondent had made insufficient efforts to find alternative properties. She explained that she lived very close to the Property and knew the area very well. She gave an example of a property that went on the rental market in the very near vicinity and said that the Respondent had done nothing to visit that Property at all. She concluded that the reason the Respondent was not looking at other properties was because he preferred to take advantage of the Applicant.

[9] Ms Ahmad explained that she is 34 years of age and her primary occupation is caring for her parents. Her father is 80 and her mother (the Applicant) is just over 60. The Property in question is a two bedroom, ex-council owned terrace house. There is no main garden and the Property has one small toilet, a very small kitchen and a living room. The Property is over two floors.

[10] The Applicant and her husband are currently living at 158 Maxwell Drive which is on the other side of the street from the Property. Ms Ahmad lives at 9 Woodrow Place which is also very close. 158 Maxwell Drive has five bedrooms, two bathrooms, two living rooms, a rear extension and has a large front and rear garden with a large driveway. If the Eviction Order is granted, then the family's younger brother will live at 158 Maxwell Drive with his soon to be new wife.

[11] Ms Ahmad explained that she considers that the Respondent has not taken good care of the Property and has damaged it. She spoke of a child having damaged the ceiling and the kitchen having broken doors and worktops. She explained that the amount of people in the Property had resulted in high levels of wear and tear. Ms Ahmad explained that she had last inspected the Property around two years ago. There have been no recent gas safety checks. Ms Ahmad explained that there was tension between the parties and the Respondent had previously called the police when the Applicant's family had approached the Property. Ms Ahmad explained that the police had warned the Applicant and her family to stay away from the Property meaning that Ms Ahmad had not approached the Property for over two years.

[12] Ms Ahmad explained that her father lives on a basic pension and the Applicant gets certain disability payments. She said that her brother supports them. Ms Ahmad also stated that one of her younger brothers lives in the Applicant's current home but comes

and goes out to work. That is the same brother who is going to get married and who the family then intend to stay on in that Property with his new wife. Ms Ahmad explained that the Applicant and her husband do not own any other properties.

[13] The Tribunal asked Ms Ahmad about why ownership of the Property transferred to the Applicant from herself in 2022. She answered that as her father's health declined, they were advised by health workers to move into a smaller property. The Property had originally been intended for Ms Ahmad to live in, but she then needed a larger home as she now has four children.

[14] Ms McBryde challenged Ms Ahmad about how moving into a property that was currently rented out for money could be financially beneficial to the Applicant. Ms Ahmad made reference to reduced council tax charges. Ms McBryde put to Ms Ahmad that a previous Notice to Leave had been served in October 2022 on the basis of ground 3- "*landlord intends to refurbish.*" She challenged Ms Ahmad on whether those repairs had ever been completed. Ms Ahmad stated that they were not because the Respondent refused to allow the Applicant to approach the Property and claimed that they were being harrassed.

[15] Ms McBryde also challenged Ms Ahmad as to how she might have any up to date knowledge regarding the condition of the Property given that she has not inspected it for so long. Ms McBryde also challenged Ms Ahmad as to why the Applicant had proposed to increase the rent to such a high level. Ms Ahmad pointed out that the rent had not previously been increased for 4 years and it was now reasonable and necessary to propose a higher rent. Ms Ahmad spoke about the proposed rent being typical of the going rent for a two bedroom property in the G41 postcode area.

[16] The rent had been at £600.00 per month and Ms Ahmad had proposed to increase it to £1,100.00 per month. Ms McBryde put to Ms Ahmad that the rent increase had been challenged by the Respondent and the rent had been assessed as £750.00 per month by the rent officer. It was therefore put to Ms Ahmad that her proposed rent increase had not been fair and she was not acting reasonably.

[17] Ms McBryde put to Ms Ahmad that in addition to trying to raise the rent to unreasonable levels, Ms Ahmad and her family had harrassed the Respondent and attended at their Property and encouraged them to leave resulting in the police being called. Ms Ahmad accepted that she had attended at the Property but denied that she had been harrassing the Respondent.

[18] Ms McBryde challenged Ms Ahmad about how she knew what the domestic situation was at the Property and who was staying there. Ms Ahmad explained that the neighbours were her friends and they had told her about the comings and goings. She also explained that there were four cars parked outside the Property.

The Respondent- Ajaz Cheema Ahmad

[19] The Respondent is 58 years of age and his wife is 53. The Respondent (who is no relation to the Applicant) explained that he moved into the Property in October 2021 with his daughter and son. The Respondent's wife moved into the Property at a later stage along with further children of various ages. The Respondent has one daughter who he described as being "12 or 13" and an older daughter who is 19. He explained that at one point four children lived in the property- two younger and two adult children.

[20] The Respondent somewhat tied himself up in knots trying to explain who lived in the Property at various stages. It appeared that the Respondent and his wife stayed in one room, three daughters stayed in the other bedroom and an older son stayed in the living room for a significant period. The Respondent clearly did not have a good understanding of when the children moved out and he frequently contradicted himself attempting to identify the relevant dates. He said that the older two children had now moved out. His description of the current living situation also did not tie in with what his position had been at the previous Case Management Discussion on 2 October 2024 when it was recorded in the notes produced that he wanted to stay in the Property with his "*three children*". The Respondent made reference to his older son moving out and his oldest daughter moving out when she was married but he kept getting muddled. The Tribunal concluded that it remained decidedly unclear as to how many people were living in the Property and for how long. It was certainly clear that for some time four adults and two children of the same family were living in the Property.

[21] The Respondent also did acknowledge that two relatives from Pakistan came to visit "*for a couple of days*". This was presumably in addition to the permanent residents of the Property. The Tribunal was also unsure how reliable the Respondent's description of the length of the visit was given how vague and contradictory he was about his domestic living arrangements more generally.

[22] The Respondent also discussed the alleged harassment. He said he couldn't remember the date and he was not in the Property when the Applicant's family attended at the Property. The useful evidence the Respondent could provide on this topic was therefore limited. He described how his daughter had phoned the police.

[23] The Respondent discussed the history of his rental payments although the Tribunal was not entirely sure of the precise relevance of this.

[24] Ms Ahmed challenged the Respondent in cross-examination about various aspects of his evidence. She challenged him on why, when he had damaged a ceiling, he had refused to allow the landlord access to the Property to fix it and had instead arranged

the repair himself. The Respondent was challenged on his apparent ignorance of the dates, even in broad terms, of when his children moved out of the Property. The Respondent was also challenged about the lack of effort in finding alternative accommodation either in the private sector or by contacting housing associations.

[25] The Respondent also pointed out that his wife cannot drive and it was important to his family that they stay within a 10 to 15 minute walk from their local school so that his children could walk themselves to school. The Respondent appeared to settle on only wanting to stay in the G41 post code area. Ms Ahmed was critical of this.

[26] The Respondent also described his wife as having depression, anxiety and “*lots of medical issues*”. There were no medical notes or specialist reports submitted regarding any of these health issues. The Respondent also described being on good terms with the neighbours who also have a young child who is very attached to his wife.

Comment on Evidence heard

[27] It was clear that the parties were on very poor terms. It seemed that whatever the rights and wrongs of it, the parties had no working relationship. There was nothing to suggest that Ms Ahmed’s mother and father did not genuinely want to move into the Property. Whilst the Respondent challenged the veracity of the ground, it seemed that to determine that this was not true would have required disbelieving Ms Ahmad on almost every part of her evidence. The Tribunal were not willing to do that.

[28] On the whole, Ms Ahmad’s evidence appeared credible and reliable to the Tribunal. There was no reason not to suggest that her parents did not want to move into the Property. This was primarily expressed as a desire to downsize and move into a more manageable property which was easier to maintain. The Tribunal did not really accept that there was a legitimate case put forward for saying that it was financially necessary for the Applicant and her husband to do so. That seemed somewhat of a stretch on the evidence put forward. There was no vouching of the Applicant’s financial position that might support such an argument. The Tribunal also noted that the Applicant’s family intended the Property currently occupied by the Applicant to become their other son’s new marital home. That sounded plausible. The fact the Property was very close to Ms Ahmad who was the Applicant’s primary carer also corroborated this.

[29] As for the Respondent, the Tribunal did find his evidence about the dates and times people were living in the Property to be odd and unconvincing. It was clear that the Property probably was overoccupied for a significant period of time. That was probably not the case now. The Respondent appeared attached to the area but there was little to suggest that he had gone to great lengths to explore alternative housing options. The Respondent’s evidence certainly did not give the impression that the Respondent was someone who was well informed about such matters or pro-active in that regard. The

Tribunal got the impression the Respondent was very comfortable where he was and hadn't gone to much trouble to see if the family could find somewhere else close by.

[30] It was apparent that the landlord and tenant relationship had broken down and could no longer function. The evidence from both parties did not give any hope that this situation might improve.

Applicant's submissions

[31] On behalf of the Applicant, it was suggested that the ground was established and that it was reasonable to make an Eviction Order. The Applicant summarised the outline of the evidence presented and her position was that the Tribunal should accept that evidence as compelling and make the order sought.

Respondent's submissions

[32] Ms McBride maintained her challenge to both the merits of the ground itself and also the reasonableness of the order sought. She also highlighted that the Tribunal had not heard testimony from the Applicant herself and that the evidence from Ms Ahmad was second hand. Whilst the observation was clearly factually correct and worthy of mention, the Tribunal did not accept that the result was that there was a deficiency of evidence that rendered it impossible to grant the Application. The situation was perhaps not that unusual and analogous to a situation where a letting agent closely involved in a case gives evidence in the absence of the actual landlord. Whilst it was true that this case did directly relate to the Applicant's intentions, the Tribunal did note that the Applicant was described as being an elderly lady in poor health. It did not seem unreasonable to the Tribunal that her daughter, who is clearly closely involved in the whole situation, might be the sole source of parole evidence on her behalf. Ms McBride correctly noted that a statement produced in the documentation on behalf of the Applicant was not signed nor notarised. But the Tribunal again did not consider that fatal to the Applicant's case as a matter of law. The fact that the sole source of parole evidence came from the Ms Ahmad did not even seem unreasonable.

[33] Ms McBride pointed out the lack of vouching in respect of the alleged financial hardship suffered by the Applicant and her husband as a result of their occupation of their present home. The Tribunal agreed that there was little evidence to support that argument. Ms McBride also summarised the key points which she said ought to result in the Application being refused. The Respondent and his family would be made homeless with no where else to go. The Respondent's children are settled in the area and attend school locally. The Respondent's wife suffers from depression and anxiety which would make having to move house more traumatic. Any temporary accommodation they are placed in could be anywhere in Glasgow including potentially far away from their school and support group. Ms McBride's secondary position was that if an order is to be

granted, then it should be subject to the provision that it may not be enforced for a period of at least three months.

[34] Having heard from parties, the Tribunal made the following findings in fact.

Findings in Fact

- 1) *The Applicant acquired the landlord's interest in a Private Residential Tenancy Agreement which let the Property to the Respondent. The original tenancy commenced in October 2021. The Applicant had acquired ownership of the Property from her daughter, Ms Sehrish Ahmad, in April 2022.*
- 2) *The Property is a two-bedroom property over two floors.*
- 3) *The Respondent has resided in the Property continuously from October 2021 onwards. After he took occupation, he was soon joined by his wife and two children. At times, the Respondent has also lived in the Property with two older adult children. For a significant time, the Respondent and his wife, two young children and two adult children were living in the Property. The Property was over occupied. The Respondent is an unreliable source of information as to when the Adult children vacated the Property and doubts remain about exactly who was staying in the Property and over what time periods.*
- 4) *The Respondent reports that his wife suffers from depression, anxiety and other unspecified medical issues.*
- 5) *There are significant tensions between the Respondent and the Applicant and her family. The Respondent and his family allege that they have been harassed by the Applicant and her family. The details of what may or may not have happened cannot be readily established on the evidence presented. The relationship between the parties has however deteriorated to the point that there is no line of communication between the parties at all and no likelihood of this situation improving.*
- 6) *The Respondent enjoys living in the local area and has good relations with at least some of the neighbours. His children walk to school and the Respondent wishes to continue with the arrangement whereby his children can walk to school in a journey that takes around 10-15 minutes.*
- 7) *The Applicant and her husband currently live at 158 Maxwell Drive which is a large Property with five bedrooms, large front and back gardens and which has a large driveway. The Applicant is 60 and her husband is 80 and they are in poor health. They have reduced physical capabilities commensurate with their*

advanced years. The Applicant's husband has recently had knee surgery and has reduced mobility.

- 8) The Applicant and her husband wish to move into the Property. It is one minute away from their daughter, Ms Sehrish Ahmad who is the Applicant's primary carer and daughter. It will be much easier for Ms Ahmad to look after the Applicant if the Applicant moves into the Property. The property at 158 Maxwell Drive is then intended for the Applicant's son who is shortly to be married. That will then become his marital home.*
- 9) The Applicant competently served a notice to leave in terms of Ground 4 of Schedule 3 of the Act on the Respondent and has also served the requisite notice in terms of Section 11 of the Homelessness (etc) (Scotland) Act 2003 on the relevant local authority. The Respondent has remained in occupation of the Property beyond the expiry of the notice period set out in that notice to leave.*

Analysis

[35] Having made the above findings in fact, the Tribunal considered that ground 4 of Schedule 3 of the Act was established. The Tribunal had no basis on the evidence presented to legitimately conclude otherwise. The Tribunal accepted that the Applicant genuinely wishes to move into the Property as her permanent home. The Tribunal then went on to consider whether it was reasonable to make an Eviction Order.

[36] The Tribunal noted that there is no presumption that the proprietorial rights of an owner are to be preferred to the occupancy rights of a tenant. The Tribunal noted and accepted that granting the Eviction Order would cause disruption to the Respondent and could result in the Respondent's family being offered emergency accommodation elsewhere in Glasgow which could be disruptive to schooling and the healthy routines of walking to school. Whilst the Tribunal had no formal medical verification of the extent of the Respondent's wife's declared conditions of anxiety and depression and other medical conditions, the Tribunal accepted that, were the order to be granted, these conditions could result in increased levels of stress to the Respondent's wife which naturally anyone would want to avoid. For balance though, the lack of any medical evidence did make it hard for the Tribunal to conclude that the effects of any such increased stress might be unusually acute or pronounced. The Tribunal did not find that the Respondent's modest efforts to source alternative accommodation ought to weigh against the Respondent in the balance. The Respondent couldn't speak English which would naturally make such tasks harder. The Tribunal was also reluctant to criticise the Respondent for not trying particularly hard to find alternative accommodation as he and his family clearly wanted to stay in the Property they were in.

[37] Similarly, the Tribunal considered the Applicant's own circumstances in assessing the reasonableness. The Applicant and her husband's desire to be closer to their daughter, who was the Applicant's primary carer, was perfectly legitimate and sensible. The desire to downsize was reasonable. The desire to allow their current home to become the family home of their son is also reasonable. The Tribunal was less convinced about the financial necessity of the proposed move.

[38] These issues were all in competition and were assessed by the Tribunal as balancing evenly against each other in the scales of reasonableness. However, there was a further factor that the Tribunal felt tipped the scales clearly in favour of the Application being granted. That was that the tenancy was clearly unsuccessful in that the parties had a fraught relationship and couldn't communicate with each other on any meaningful level. There had been allegations of harassment and allegations of over occupation of the Property. These issues were unresolved and were unlikely to be overcome. It appeared very clearly to the Tribunal that the relationship between Landlord and Tenant had broken down and the current situation could not reasonably be allowed to continue.

Decision

[39] The Tribunal considered that this weighed in the balance to tip the scales decisively in favour of it being reasonable to grant the Application. The alternative of leaving this arrangement in place seemed decidedly unappealing. In isolation this would not have been a decisive factor but in the mix of the other relevant factors, it was sufficient to tip the scales in favour of considering it reasonable to grant the Application.

[40] Notwithstanding this, the Tribunal concluded that it would be preferable allow the Respondent and his family additional time before the order granted could be enforced. This might allow the relevant local authority sufficient time to try and avoid resorting to emergency accommodation outside the Respondent's preferred local area. The Tribunal will accordingly provide that the Eviction Order granted may not be enforced until a date two months from the issuing of this decision. The decision is dated 20 August 2025. The order therefore may not be enforced until 20 October 2025.

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.

Andrew McLaughlin

Legal Member/Chair

20 August 2025

Date