



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 (“the 2016 Act”) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”)

Chamber Ref: FTS/HPC/EV/25/0830

Re: Property at 48 Clydesdale Road, Bellshill, ML4 2QQ (“the Property”)

Parties:

Miss Kim Sommerville, 120 Douglas Street, Uddingston, G71 5RJ (“the Applicant”)

Mr Marc Wallace, 48 Clydesdale Road, Bellshill, ML4 2QQ (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the property be granted.

Background

1. By application received on 25 February 2025, the Applicant's daughter applied to the Tribunal for an order for recovery of possession of the property in terms of Section 51 of the 2016 Act. Recovery was sought on the basis of both Grounds 4 and 5 of Schedule 3 to the 2016 Act (landlord intends to live in the property; a family member of the landlord intends to live in the property). Supporting documentation was submitted with the application, including a copy of the tenancy agreement, the Notice to Leave/proof of service of same, the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003 and evidence in support of the ground, namely an Affidavit from the Applicant confirming her intention to reside in the Property.

2. The application was subsequently accepted by a Legal Member of the Tribunal acting with delegated powers from the Chamber President who issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations dated 30 April 2025. Notification of the application was then made to the Respondent and the date, time and arrangements for a Case Management Discussion ("CMD") were intimated to both parties, advising of the date by which any written representations should be lodged. Said notification was served on the Respondent by Sheriff Officer on 18 October 2025.
3. On 1 September 2025, the Respondent emailed representations to the Tribunal, advising that he was not wishing to contest the eviction and wished to obtain a larger property through the local authority, to whom he had already applied, due to his personal and financial circumstances. He wondered whether the CMD was necessary in the circumstances. The Tribunal responded to advise that the CMD would still proceed and requested that the Respondent attend, if possible, although if he did not, his written representations would be taken into account by the Tribunal in considering matters at the CMD.

Summary of Discussion

4. A Case Management Discussion ("CMD") took place by telephone conference call on 22 September 2025 at 2pm, attended by the Applicant, Miss Kim Sommerville and by the Respondent, Mr Marc Wallace.
5. Following introductions and introductory remarks by the Legal Member, it was clarified that the correct Applicant in terms of the application was Miss Kim Sommerville and that Miss Nicole Sommerville, named on the application, was the Applicant's daughter. The Tribunal had noted that, although the Landlord Registration was in the name of Miss Nicole Sommerville, both the Property title and the landlord in terms of the Tenancy Agreement were in the names of the Applicant. It was clarified that it had initially been intended that the Applicant's daughter would move into the Property with the Applicant but this was no longer the case. Accordingly, Miss Kim Sommerville confirmed that only ground 4 for eviction, that the landlord intends to reside in the property, was now required.
6. Mr Wallace confirmed that he was not opposing the application and, indeed, wished the eviction order to be granted as soon as possible, so that his own living circumstances could be improved. He explained that he lives in the Property, a one bedroom flat, with his twin children, a girl and a boy, who are now nearly two. The children currently sleep in the living room of the Property and the Respondent sleeps in the bedroom but this is difficult, due to the layout of the Property and the lack of space. The Respondent explained that he is confined to his bedroom in the evenings as the twins are asleep in the living room and he is unable to access the kitchen during this time as it is off the living room and he would disturb the children. He stated that it is a lovely flat but is no longer at all suitable for him. He also has an issue with arthritis and is awaiting an operation. However, he requires to use crutches and leg braces and this makes it hard to manoeuvre around in the small space. It is also difficult to manage the children due to their age and explained that they are constantly

moving around and climbing things. Mr Wallace has made the local authority aware of his circumstances but explained that their view is that he presently has a roof over his head and is not therefore going to be homeless until an eviction order is granted.

7. Miss Sommerville confirmed that Mr Wallace has been a good tenant but, due to her changing circumstances, as well as his, he requires a bigger property and she requires to recover the Property to live in herself. She stated that they have been waiting since November 2024 to get this sorted out and wondered if the Tribunal could reduce or remove the 30-day appeal period that normally applies to try and speed things up and in the circumstances. The Legal Member explained that this is not possible, in terms of the legislation but advised that, if an order was to be granted, the paperwork would be issued within a few days, specifying the earliest date for eviction and that should enable the Respondent to produce this to the local authority in the hope that his housing application would be progressed and prioritised.
8. The Tribunal Members conferred and thereafter confirmed that the Tribunal was satisfied that the ground for eviction was met and that it was reasonable, in the circumstances and particularly, in the absence of any opposition from the Respondent, for the eviction order sought to be granted today. There was some brief further discussion regarding the paperwork to be issued and the process which would follow. It was confirmed that the earliest date for eviction to be specified in the order would be **23 October 2025**. Mr Wallace confirmed that he would advise the local authority straight away and Miss Sommerville indicated that she would accommodate Mr Wallace as much as possible if alternative housing was not available to him by that date. He confirmed that he would keep in touch with Miss Sommerville regarding the matter. Both parties were thanked for their attendance at the CMD.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 12 March 2020.
3. A Notice to Leave dated 18 November 2024 was served on the Respondent by hand delivery on 18 November 2024, which was confirmed by the Respondent in writing.
4. The date specified in the Notice to Leave as the earliest date a Tribunal application could be lodged was 10 February 2025.
5. The Tribunal Application was received on 25 February 2025.
6. The Applicant intends to live in the Property as their only or principal home for at least 3 months.

7. The Respondent continues to reside in the Property, which is a one-bedroom flat.
8. The Respondent has made application to the local authority for alternative, more suitable housing for himself and his two children.
9. The Respondent attended the CMD and did not oppose the application.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers, including the application and supporting documentation including the Affidavit from the Applicant, the written representations lodged prior to the CMD by the Respondent and the oral representations made by the Applicant and the Respondent at the CMD.
2. The Tribunal found that the application was in order and that notice had been served timeously and in accordance with the terms of the tenancy agreement and the legislation. The Tribunal was also satisfied that the ground of eviction, that the landlord intends to live in the let property, had been met (Ground 4 of Schedule 3 to the 2016 Act), in that the Tribunal was satisfied that the Applicant intends to occupy the Property as their only or principal home for a period of at least three months and that the reason for her requiring to recover the Property was due to her own changed circumstances. The Respondent's circumstances were also considered by the Tribunal, in particular, the fact he was not opposed to the application due to his own personal and family circumstances and required a larger, more suitable home for himself and his children as soon as possible. The Tribunal noted that he had already applied to the local authority for alternative accommodation but had been told that this would not progress unless and until an eviction order is granted by the Tribunal. In all the circumstances, the Tribunal was satisfied that it was reasonable to grant the eviction order sought.
3. The Tribunal determined that an order for recovery of possession of the Property could properly be granted at the CMD, there being no requirement for the application to be considered at an Evidential Hearing.

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.

Nicola Weir

Legal Member/Chair

22 September 2025
Date