

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/24/3929

**Re: Property at Flat 65, Castle Court, 3 Kings Drive, Newton Mearns, Glasgow,
G77 5JB (“the Property”)**

Parties:

Mrs Jayne McEwen, 5 Cresswell Place, Glasgow, G77 5FD (“the Applicant”)

**Mrs Sanam Gull, Flat 65, Castle Court, 3 Kings Drive, Newton Mairns, Glasgow,
G77 5JB (“the Respondent”)**

Tribunal Members:

Alison Kelly (Legal Member) and Angus Lamont (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the order for eviction should be granted.**

Background

1. On 25th August 2024 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - i. Copy Private Residential Tenancy Agreement showing a commencement date of 1st April 2021 and a rent of £895 per month;
 - ii. Copy Notice to Leave dated 29th May 2024;

- iii. Copy email dated 29th May 2024 to the Respondent serving the Notice to Leave;
 - iv. Section 11 Notice and proof of service;
 - v. Email from Hames Estate Agency dated 19th September 2024 confirming instructions to market the property and two others.
3. The Application was served on the Respondent by Sheriff Officers on 10th March 2025.
4. On 7th April 2025 the respondent lodged a Written Submission outlining their position.
5. On 11th April 2025 the Applicant lodged a Written Submission in reply.

Case Management Discussion

6. The Case Management Discussion ("CMD") took place by teleconference. The Applicant did not join the call. The Respondent joined the call and was represented by her husband. Mr Khan.
7. The Tribunal instructed the Clerk to telephone the Applicant. The Clerk phoned several times, but the number rang out. The Tribunal waited until 10.15 to see if the Applicant joined, but she did not.
8. The Tribunal explained the purposes of a CMD in terms of Rule 17 of the Rules. The Tribunal also explained that it could not explore the dispute with the parties if the Applicant was not present. In terms of Rule 2 The overriding objective of the First-tier Tribunal is to deal with the proceedings justly. This includes ensuring, so far as practicable, that the parties are on equal footing procedurally and are able to participate fully in the proceedings, including assisting any party in the presentation of the party's case without advocating the course they should take. Given that the Applicant had emailed a Written Submission on 11th April 2025, and had, in her email, referenced that the CMD was today, the Tribunal were concerned that something may have happened to prevent the Applicant from participating and that it would not be just to dismiss the application due to her absence. The Tribunal told the Respondent that another date would be fixed for the CMD and the date advised in due course.
9. Mr Khan, when asked if the Applicant had been in touch over the weekend, answered in the negative, and said he had not spoken to the Applicant since reporting a roof leak several months before, which the Applicant had done nothing about. The Tribunal took the opportunity to confirm to Mr Khan, making reference to the Written Submissions lodged on behalf of the Respondent, that the purpose of this application was to determine whether the ground of eviction had been established and whether it was reasonable to grant an eviction order. The Tribunal made clear that it could not deal with any questions about the level of rent or outstanding repairs.

Procedure Subsequent to Case Management Discussion

10. The Tribunal issued a CMD Note and also a Direction to each party. The terms of the Direction were:

The Applicant is required to provide:

1. *Documentation to show that her mortgage lender is unwilling to extend the mortgage on the property*
2. *Documentation to show that roof replacement will be required at the property*
3. *Documentation to show the current level of the mortgage payment in relation to the property*

The said documentation should be lodged with the Chamber no later than close of business on 1st May 2025.

The Respondent is required to provide:

1. *A Written Statement setting out why they do not consider it reasonable to grant an order for eviction.*

The said documentation should be lodged with the Chamber no later than close of business on 1st May 2025.

11. The Applicant complied with the Direction by lodging Written Submissions on 9th May 2025 containing the information required. The Respondent did not lodge anything in response to the Direction.

Case Management Discussion

12. The Continued Case Management Discussion ("CMD") took place by teleconference. The Applicant represented herself. The Respondent was present and was represented by her husband, Mr Khan.
13. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
14. The Chairperson asked why the Respondent had not complied with the Direction. Mr Khan said that they had thought that today was in relation to their other case with the Tribunal. They did not realise that they needed to lodge anything.
15. The Applicant confirmed that she sought an order for eviction in terms of ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act

21016. She said that she intended to sell the property, or at least put it up for sale, within three months of the Respondent vacating it. She said that she was clear at the outset of the tenancy that she would be looking to sell when the mortgage term came to an end. She said that the Respondent and her husband made an offer to purchase the property in November 2023, but in January 2024 they withdrew their offer because they could not get finance.

16. The Applicant said that she had investigated selling the property with Respondent as a sitting tenant, but due to the low yield of rent and the fact that a roof repair, costing at least £20,000, was required she had not been able to find anyone to purchase it.
17. The Applicant said that she had approached her lender a year ago but they will not extend the term of the mortgage. She does not have sufficient income for them to do so. She is borrowing from her sons every month to pay bills. The mortgage ends on 31st December 2025 and she is worried that the lender will repossess the property and she will lose the equity.
18. The Applicant said that she has another four rental properties. She had more but she has sold some and others are in the process of sale. This property is worth around £170,00, and the mortgage is around £86,000. It is the property with the most equity and selling it would allow her to meet her debts on the other properties. She is a joint owner of a property in Millport and the local authority are about to put a repairs notice on it due to a vital roof repair which she cannot afford to pay for.
19. The Applicant said that selling other properties has not helped her out of her dire financial situation as there were many costs associated with the sales, and she also has an outstanding tax bill. She does intend to remain as a landlord as she needs rental income to put in to her pension, but selling this property will allow her to keep other properties.
20. Mr Khan said that he accepted that the Applicant wished to sell the property. He said that he and his wife had tried to buy it but he said that it had fallen through because the lender had wanted a Home Report and the Applicant would not provide one.
21. Mr Khan did not consider it reasonable for his family to be evicted. He said that he and his wife live in the property with their four children, aged 17, twins of 15, and a 10 year old. The children all attend schools which are only five minutes away from the property. He worries about disturbing their schooling as the older ones are in important school years.
22. Mr Khan said that the property is a two bedroom one, but the sitting room is used as a third bedroom. He and his wife share one room, the three girls share another, and his son has a room to himself. He said that they have never missed a rent payment. It is not their fault that the Applicant has business problems.

23. Mr Khan said that both he and his wife work. He is a bus driver and she works in Asda. They work different shifts so that they can care for the children. They do not claim benefits. No one in the family has a disability.
24. Mr Khan said that the family had contacted the local authority regarding re-housing but they had not offered assistance.
25. The Applicant refuted that she had refused to provide a Home Report, She said that she was never asked for one and that she was told the respondent had her husband could not proceed with the purchase due to a change in circumstances.
26. The Tribunal were satisfied that no matters of relevant fact were in dispute and that it had sufficient information to allow it to make a decision without the need of a Hearing.

Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property;
- b. The tenancy commenced on 1st April 2021;
- c. A Notice To Leave, dated 29th May 2024, was served on the Respondent;
- d. A section 11 notice was served on the local authority;
- e. The Application was served on the Respondent by Sheriff Officer on 10th March 2025;
- f. The Applicant is the owner of the property;
- g. The Applicant intends to sell or market for sale the property within three months of the Respondent vacating;
- h. The Applicant owns a number of properties;
- i. The Application cannot sell this property with sitting tenants due to low yield and an impending roof repair costing in excess of £20,000;
- j. The Applicant has debts in relation to other rental properties she owns;
- k. The Applicant cannot extend the term of the mortgage;
- l. The Applicant wishes to use the equity in this property to meet her debts;
- m. The respondent lives in the property with her husband and four children;
- n. The property has two bedrooms and the sitting room is used as a third bedroom;
- o. The property is near the schools which the children attend;
- p. The respondent and her husband are both in employment;
- q. There are no rent arrears;
- r. No one in the Respondent's family has a disability.

Reasons for Decision

27. Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 is as follows:

(1)It is an eviction ground that the landlord intends to sell the let property.

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

(a) is entitled to sell the let property,

(b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and

(c) 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)(b) includes (for example)—

(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

28. The Tribunal is satisfied that the ground has been met in so far as the Applicant has title to sell the property and she intends to do so in terms of Ground 1(2)(b).

29. The Tribunal is also satisfied, having balanced the respective positions of the parties that it is reasonable to grant the order for eviction. The Tribunal appreciates that the Respondent has four children attending school in the local area, but this is outweighed by the Applicant's financial position and her need to sell the property to meet her debts.

30. The Tribunal decided that it was reasonable in the circumstances to extend the time period for extract of the order to two months to give the Respondent an opportunity to bring the situation to the attention of the local authority and seek alternative housing.

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.

Alison Kelly

6th October 2025

Legal Member/Chair

Date