



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/25/0280

Re: Property at Flat 2/1 24 St Monance Street, Glasgow, G21 4UL (“the Property”)

Parties:

Ms Laura Strachan, 100 Broomfield Road, Glasgow, G21 3UD (“the Applicant”)

Mr Ikechukwu Maduka, Anthony Okpube, Flat 2/1 24 St Monance Street, Glasgow, G21 4UL (“the Respondent”)

Tribunal Members: Ruth O’Hare, Legal Member and Elizabeth Dickson, Ordinary Member

Decision (in absence of the first Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) are met and it would be reasonable to make an eviction order.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

Background

- 1 This is an application for an eviction order under Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Applicant relied upon ground 12 as the ground for possession, citing unpaid rent. The application was conjoined with a separate application under reference FTS/HPC/CV/24/2528 as the applications related to the same parties and the same tenancy.
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 21 May 2025. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served

upon the Respondents by sheriff officers. All parties were invited to make written representations.

- 3 On 13 May 2025 the Tribunal received written representations from Legal Services Agency Ltd on behalf of the second Respondent which included a response to the application and an inventory of productions. That same day the Tribunal received written representations from Holmes McKillop on behalf of the Applicant, which included an updated rent statement. On 16 May 2025 the Tribunal received an email from Holmes McKillop with a third inventory of productions for the Applicant.

The CMD

- 4 The CMD took place on 21 May 2025 by teleconference. Mr Robin McAdam of Holmes McKillop represented the Applicant. Miss Denise Borrer represented the second Respondent. The first Respondent was not in attendance. Miss Borrer advised that she understood he was no longer residing at the property. The Tribunal delayed the start time of the CMD for a short period before determining to proceed in his absence.
- 5 The Tribunal had the following documents before it:-
 - (i) Form E application form;
 - (ii) Title sheet GLA69361 confirming the Applicant as the registered owner of the property;
 - (iii) Excerpt from the online landlord register confirming the Applicant's landlord registration;
 - (iv) Private residential tenancy agreement between the parties dated 25 April 2022;
 - (v) Section 11 notice to Glasgow City Council and proof of delivery by post;
 - (vi) Rent statements;
 - (vii) Notice to leave dated 14 November 2024 together with proof of service upon the Respondents by recorded delivery mail;
 - (viii) The Applicant's second and third inventories of productions; and
 - (ix) The Respondents' written representations.
- 6 Having heard submissions from the parties, the Tribunal determined to fix a full evidential hearing. The Tribunal identified the following issues to be resolved:-
 - (i) Is it reasonable to make an eviction order on account of the facts of this case?
 - (ii) Is the second Respondent entitled to a rent abatement as a result of any breach by the Applicant of her repairing and maintenance obligations in respect of the property?
- 7 The Applicant also indicated a wish to amend the application to include grounds 4 and 11. The Tribunal determined to deal with this issue as a preliminary matter at the hearing, as the Respondents had not had notice of the amendment in advance of the CMD.

- 8 Following the CMD the Tribunal received additional lists of documents from both the Applicant and the second Respondent.

The hearing

- 9 The hearing took place on 9 October 2025 at Glasgow Tribunals Centre. The Applicant was in attendance and represented by Mr McAdam. The second Respondent was present and represented by Miss Luisa Fidelo, Solicitor of Legal Services Agency Ltd. The first Respondent did not attend. The Tribunal noted he had been given notice of the hearing and determined to proceed in his absence.
- 10 Ms Fidelo advised that parties had been in discussions and the second Respondent was no longer contesting the eviction order. The second Respondent had recently been granted access to public funds and had made a homeless application to the local authority. He would be found unintentionally homeless which would then allow him to obtain accommodation with the council. Miss Fidelo confirmed he had received that commitment from the local authority's homeless team.

Findings in fact

- 11 The Applicant is the owner and landlord, and the Respondents are the tenants, of the property in terms of a private residential tenancy agreement.
- 12 The Applicant has given the Respondents a notice to leave that includes ground 12 of schedule 3 of the 2016 Act.
- 13 The Applicant has given the local authority notice under section 11 of the Homelessness etc (Scotland) Act 2003 at the time of making this application.
- 14 The contractual rent for the property is £635 per month.
- 15 The Respondents are in arrears of rent. As at the date of this decision, arrears of £13,335 have accrued.
- 16 The arrears are not known to be due to any failure or delay in the payment of a relevant benefit.
- 17 The first Respondent is no longer residing at the property.
- 18 The second Respondent resides at the property with his daughter, aged 10.
- 19 The second Respondent now has access to public funds. The second Respondent has made a homeless application to the local authority.
- 20 The second Respondent does not oppose the eviction order.

Reasons for decision

- 21 The Tribunal was satisfied that it had sufficient evidence before it, in terms of the documentary evidence and oral submissions from the parties, to make relevant findings in fact in order to reach a decision on the application. The second Respondent no longer sought to oppose the application and the substantive facts of the case were therefore not in dispute. The first Respondent had been given the opportunity to participate in the proceedings but had chosen not to do so.
- 22 Section 52 of the 2016 Act states that “*an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant*”. The Tribunal was satisfied based on the documentary evidence before it that the Applicant has given the Respondents a notice to leave that complies with the requirements of the 2016 Act. The Tribunal was further satisfied that the Applicant has given the local authority a section 11 notice in accordance with the requirements of section 56 of the 2016 Act.
- 23 The Tribunal went on to consider the wording of ground 12:-

“(1)It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

(2).

(3) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—(a)for three or more consecutive months the tenant has been in arrears of rent, and

(b)the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.

(4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider—

(a) whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and

(b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.

(5) For the purposes of this paragraph—

(a)references to a relevant benefit are to—

(i)a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),

(ii) a payment on account awarded under regulation 91 of those Regulations,

(iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,

(iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,

(b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.

(6)Regulations under sub-paragraph (4)(b) may make provision about—

*(a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),
(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,
(c) such other matters as the Scottish Ministers consider appropriate.”*

- 24 The Tribunal accepted based on the rent statements produced that the rent account has been in arrears for more than three consecutive months. The second Respondent did not dispute this. The Tribunal therefore considered whether it was reasonable to make an eviction order on account of those facts, which requires the Tribunal to identify those factors relevant to reasonableness and determine what weight to apply to them.
- 25 The Tribunal took into account the level of arrears, which were significant. The Tribunal also took into account the impact of the arrears on the Applicant, in terms of her financial situation. It was clear that she had struggled to meet the ongoing property costs in the absence of any rental payments for a prolonged period of time.
- 26 The Tribunal carefully considered the Respondents’ circumstances. Whilst the impact of eviction on the second Respondent’s young daughter was a cause for concern, ultimately the Tribunal gave most weight to the fact that he no longer opposed the granting of an eviction order, having been given access to public funds. He wished to pursue housing with the local authority and the Tribunal was aware that the making of an eviction order would assist him in this regard by prioritising his application for housing. With regard to the first Respondent, the Tribunal accepted that he was no longer residing in the property and therefore would not be rendered homeless were an eviction order to be granted. He had not sought to put forward any evidence to the contrary.
- 27 Accordingly, having weighed those factors relevant to reasonableness the Tribunal concluded that the balance weighs in favour of making an eviction order in this case.
- 28 The Tribunal therefore determined that ground 12 had been met and determined to make an eviction order. The decision of the Tribunal was unanimous.

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.

R O'Hare

Ruth O'Hare

13 October 2025

Legal Member/Chair

Date