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/24/3744

Re: Property at 651 Shields Road, Glasgow, G41 2RU ("the Property")

#### Parties:

Mr Irshad Ahmed, Flat 1/2, 21 Leven Street, Glasgow, G41 2JB ("the Applicant")

Miss Natalia Coppel, Mrs Jordan Playfair, 651 Shields Road, Glasgow, G41 2RU ("the Respondent")

Tribunal Members: Ruth O'Hare, Legal Member, and Melanie Booth, Ordinary Member

#### **Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the provisions of ground 4 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") have been met in this case and it would be reasonable to make an eviction order, with execution of the order suspended for a period of two months.

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

In terms of section 51(4) of the Act the order will terminate the private residential tenancy on 19 January 2026.

## Background

This is an application for an eviction order under section 51 of the 2016 Act and Rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 ("the Rules"). The Applicant relied upon ground 4 of schedule 3 of the 2016 Act, citing his intention to live in the property as his only or principal home.

- The application was referred to a case management discussion ("CMD") to take place by teleconference on 25 April 2025. The Tribunal gave the parties notification of the CMD in terms of Rule 17(2) of the Rules.
- Both parties were given the opportunity to make written representations in advance of the CMD. On 12 April 2025 the Applicant's representative, Mr Atif Ahmed of the Property Store, emailed the Tribunal with written representations on behalf of the Applicant, including a statement from the Applicant regarding his circumstances. On 23 April 2025, the first named Respondent's representative, Maureen Smith of Castlemilk Law Centre, emailed the Tribunal with answers to the application and a first inventory of productions for the first named Respondent. Ms Smith confirmed that she had not received any instructions to represent the second named Respondent.

## The CMD

- The CMD took place by teleconference on 25 April 2025. The Applicant joined the call and was represented by Mr Ahmed. The first named Respondent joined the call and was represented by Mrs Smith. The second named Respondent was also in attendance. Having heard from the parties the Tribunal decided to refer the application to a full evidential hearing in order to fully assess the reasonableness of making an eviction order.
- The Tribunal issued a Direction following the CMD requiring parties to submit documentary evidence and details of witnesses in advance of the hearing. The Tribunal received an inventory of productions from the Applicant and four inventory of productions from the Respondent, along with details of witnesses for both parties and amended submissions from the Respondent.

## The hearing

- The hearing took place on 16 October 2025 by teleconference. The Applicant was represented by Miss Alexandra Wooley of Bannatyne, Kirkwood, France & Co Solicitors. The first Respondent was represented by Ms Smith. The second Respondent was in attendance.
- As a preliminary matter the Tribunal noted the hearing had been originally scheduled to take place in person but due to an administrative oversight a teleconference had been assigned. Both parties confirmed they were content to proceed by teleconference. The Tribunal confirmed the documentary evidence that had been lodged by both parties. Miss Wooley advised that she had no objection to the first Respondent's fourth inventory of productions being received late.
- 8 The Tribunal proceeded to hear oral evidence from the witnesses. The following is a summary of the key elements of the evidence and is not a verbatim account.

## The Applicant's evidence

## The Applicant

- The Applicant is aged 52. He is the owner of the property at Shields Road. It is a six bedroom property. The Applicant purchased the property as a family home in around 2015. The Applicant has four children. After the Applicant purchased the property, his circumstances changed. His wife was diagnosed with cancer. The Applicant had to prioritise caring for his wife and children. He was unable to move his family into the property at that time. He had to rent the property out. His plan was to do so until his circumstances improved. The Applicant was not a professional landlord. He had rented the property to the first Respondent along with others. He gave them a lot of independence due to his personal circumstances. He intended it to be a temporary arrangement and did not apply for an HMO licence on that basis. The Applicant was aware that the occupants had changed over the term of the tenancy.
- The Applicant currently resides in a two bedroom property on Leven Street with his mother in law, two sons and two daughters. His sons share one bedroom, his daughters and mother in law share another bedroom, and he sleeps in the living room. He referred to photographs produced in support of the sleeping arrangements. His sons and eldest daughter were at university and his youngest daughter was at school. They had no private space and no space for study. The property was very overcrowded. It was creating tension amongst the family. They argued all the time. They were unable to focus. The Applicant referred to the letter produced from his family GP which demonstrated the effect the situation was having on the mental health of family members. His youngest daughter had low mood and did not want to attend school. She had not performed well in her exams. The Applicant feels he is not providing them with reasonable accommodation.
- 11 The Applicant's mother in law is disabled. She suffers from drop foot, diabetes and other medical conditions. The Applicant's current property is on the first floor. His mother in law cannot enter or leave the property without assistance. She cannot visit friends in the area and has lost her independence. She currently has no quality of life and she is anxious and worried. She requires accommodation on the ground floor. The property at Shields Road would meet her needs in that regard. The Applicant and his family have always lived together. It was important for them to maintain this. The Applicant's son is due to get married this year and the plan was for his wife to move in with the Applicant's family. She cannot do so at the moment as there is no room in the Applicant's current property. The Applicant owns the property he currently resides in, and the property at Shields Road. The property at Shields Road was his only option. He had explored purchasing a larger property but this proved unaffordable. He had spoken with a mortgage adviser and had been told he would not be eligible for a mortgage. The Applicant is currently paying of a repairs bill for Shields Road of around £70,000. He intends to live at Shields Road for the rest of his life. His mosque is close by and he has family friends in the local area.

12 In response to cross examination from Ms Smith, the Applicant explained that he had signed a new lease with the tenants of Shields Road in early 2024 as he had been told this was required for his mortgage application. He had originally given the tenants informal notice in 2022, and again in 2023. The council had enforced compulsory repairs on the building at Shields Road because the owners couldn't agree on a plan for the works. The Applicant did not have £70k set aside. The Applicant cannot purchase a six bedroom property due to his limited income. He cannot not afford the rent for a larger property and it was difficult to find a six bedroom home in the local area. The Applicant already has the property at Shields Road. There was no point in selling the Applicant's two bedroom property as it would not release sufficient funds to purchase a property of the size he requires. The Applicant had not stated that he was operating an HMO when he rented out Shields Road as he did not know at the time what that was. He knew there were other people living in the property but did not know exactly who. People would move in and out and he wasn't informed. The Applicant had not used a letting agent when he rented out the property.

## Sakina Majeed

13 Ms Majeed gave evidence with the assistance of an interpreter. She is 75 years old. The Applicant is her son in law. She does not keep well. She outlined her mobility issues which restricts her movement to and from the property, with reference to the medical evidence produced. She is in a lot of pain. It would be better for her to live in a property without stairs. She stays at home most of the day. She can't meet her friends. She shares a bedroom with the Applicant's two daughters. Her family takes care of her. She has no one apart from them. Her life is very tough at the moment due to her living conditions. In response to cross-examination from Ms Smith, Ms Majeed confirmed that her drop foot had worsened recently.

## Faiza Ahmad

Ms Ahmed is the Applicant's daughter. She is 24 years old. She is a full time university student, studying medicine. She lives at 21 Leven Street. The property is a two bedroom flat. Her father, two brothers, sister and grandmother all reside with her. She shares a room with her grandmother and sister. She referred to the photographs produced as evidence of this. It is very difficult sharing a room, especially as a full time medical student. She has no space nor quiet to study. There is always constant noise. She is unable to perform at her best academically when working towards a demanding degree. It is affecting her health. She can't have her friends over. It is embarrassing. Her grandmother is elderly and frail. Her mobility is poor. She cannot walk freely around the house due to the overcrowding. She is at risk of falls. This distresses Ms Ahmed as her granddaughter. Her grandmother has no social life which is affecting her mental health. It would improve their lives immensely to live in a larger property. It would improve their quality of life. Ms Ahmed wants to move to Shields Road. It has sentimental value, having been bought as the family home when her mother was alive. However, life had gotten in the way,

her mother had been diagnosed with cancer and had subsequently passed away. Ms Ahmed and her family have never had the chance to live there together. It was important that they stayed together as a family. They needed to take care of her grandmother.

In response to cross-examination from Ms Smith, Ms Ahmed confirmed that she is currently repeating her third year of university, having failed her exams last year. She believes this is due to her living conditions. It has affected her mentally and impacted on her student life. She wants a normal life. She had been to see the doctor about the deterioration in her mental health. It saddens her to see the same effect on her sister. Her sister is only 16.

## Atif Ahmad

- 16 Mr Ahmad is 50 years old. He is a property consultant at a letting agency, the Property Store. He has worked as a property consultant since 2005. The Applicant had walked into his office in around January/February 2024. This was the first time Mr Ahmad met the Applicant. The Applicant was looking to purchase a four or five bedroom property in Pollokshields. The Applicant had explained to Mr Ahmad that he owned the property at Shields Road along with the property at Leven Street. Mr Ahmad had given him initial advice to recover possession of Shields Road so that he could move in there with his family. Failing that, Mr Ahmad had offered to help him with a mortgage. Mr Ahmad had referred the Applicant to a financial adviser. However, the Applicant was not eligible for a mortgage to purchase a property of the right size due to his income and his lack of deposit. Mr Ahmad referred to the letter that had been sent to the Applicant in June 2024 confirming this. Mr Ahmad explained that it would be fairly easy to find a large 5 bedroom property in the area, but only if you had the money. He did not think the Applicant had the money.
- In response to cross-examination from Ms Smith, Mr Ahmad explained that he was not the Applicant's letting agent. He had tried to help him with a property purchase by referring him to an independent financial adviser who attends the Property Store on a part time basis. Mr Ahmad is not a financial adviser, and not qualified to give mortgage advice other than a soft opinion. The financial adviser had not gone ahead with a full mortgage application as the Applicant was not eligible. Mr Ahmad had advised the Applicant not to sell the property at Leven Street before he secured a new property, as he could find himself in a difficult position.

# The Respondents' evidence

## The first Respondent, Natalia Koppel

The first Respondent is aged 40 and employed as a social worker. She signed a tenancy agreement with the second Respondent for the property on 30 April 2024. She has resided there since October 2016. At that time Eleanor Appleton was named on the tenancy agreement. They had found the property on Gumtree. The Applicant had only asked for one name on the tenancy agreement. There had always been 6 people living there. The first Respondent

had paid rent to another occupant, but when he left the first Respondent took over collecting the rent and transferring it to the Applicant. The Applicant always knew there were 6 people living in the property. He had witnessed this when he visited the property in terms of the personal items and individual mailboxes.

- 19 The first Respondent derives significant benefits from living at the property. It is her home. It is a huge part of her life. She does not have family in Scotland. She has lived here for 9 years. She has forged strong bonds with her flatmates. It feels like family. They support each other. She has links to the community. She described her volunteering and group activities in the local area. The first Respondent is currently pregnant after previously experiencing two miscarriages and undergoing IVF treatment. She referred to a letter from TCP Fertility in support of this. She is due to give birth in April 2026. Stress is a huge factor in terms of the risk of miscarrying again. She requires somewhere stable to live. The first Respondent referred to the documentary evidence of her attempts to secure alternative accommodation. She has been unsuccessful. It had been difficult to find a home that would accommodate her and the other residents of Shields Road. There was a lot of competition for housing in the Southside of Glasgow. The first Respondent has contacted the housing section of the local authority. They cannot accept a homelessness application until the Tribunal makes an eviction order. The first Respondent has considered purchasing a property but has found this difficulty because of her immigration status. She is eligible for settled status but awaits confirmation of this from the Home Office. The first Respondent and her fellow occupants had made a cash offer to purchase a property but were outbid. Properties in the Southside were selling for 15-20% above market value. It was not financially viable. The first Respondent works in the third sector. She is part time, three days a week. There are no full time roles currently available.
- In response to cross-examination from Miss Wooley, the first Respondent explained that she has sympathy for the Applicant's position but the first Respondent and her friends are in a similar position. They want to be in a stable housing position without the threat of eviction. It was unfortunate for everybody involved. The Applicant is in the fortunate position of owning multiple properties. The first Respondent and her friends don't have that choice. It was for the Tribunal to determine whose need was greater. The first Respondent and her friends had been trying to find alternative accommodation but it had proved difficult. Whilst the local authority may offer assistance if the Tribunal makes an eviction order, the first Respondent is aware that people who register as homeless are not necessarily given suitable housing given the ongoing housing crisis.

# The second Respondent

The second Respondent is the joint tenant of the property with the first Respondent. He is 34 years old and a professional musician. He met the first Respondent around 3 years ago via a mutual friend. He signed the tenancy agreement with the first Respondent about a month after he moved in. There were six people residing in the property. The second Respondent pays rent to

the first Respondent and she pays it over to the Applicant. The second Respondent has had dealings with the Applicant on a few occasions. The Applicant is aware of the number of occupants in the property. He has seen the signs of physical occupancy such as the mailboxes at the front door. The second Respondent wants to continue to live at the property. It is one of the best places he has ever lived. The second Respondent and his friends get the benefits that others get from family homes in terms of collective living, for example sharing meals and bills. They were all very close. The second Respondent outlined the efforts that had been made to try and find alternative accommodation. It had been difficult to find similar properties in the same area. It was very hard to get a house at this time.

22 In response to cross-examination from Miss Wooley, the second Respondent confirmed that the Applicant had never been told exactly who was living in the property. The Applicant did know that there were 6 people living there. The second Respondent sympathised with the Applicant's living arrangements, however the Applicant had received around £150k in passive income over the last 9 or so years. The property has been untouched and is in poor condition. The second Respondent acknowledged that the property at Shields Road may be more suitable for the Applicant's family given that it is a ground floor property. However, the second Respondent questioned whether this was the Applicant's only option. The second Respondent does not own property and doesn't have a property he can rent out. It was up to the Tribunal to decide what's right. It was a difficult situation for everyone involved. The second Respondent is aware that in theory the local authority may provide assistance if an eviction order is granted, but in practice that may provide more difficult. The second Respondent would have to be made homeless which would be a stressful situation when he had no other options available.

## Megan Edwards

- Ms Edwards lives in the property with the Respondents. She has known the 23 first Respondent for two or three years, having met her in a social group of other mutual friends. She moved into the property not long after that. She has lived there for around a year and a half. There are six people living there. The bedrooms have always been occupied. Ms Edwards is not on the lease. She was not asked to sign a lease. The rent is paid to the first Respondent who then pays that over to the Applicant. Ms Edwards has seen the Applicant at the property but hasn't spoken to him. She is not sure if he knew there were 6 people living there, but there are clearly physical signs that more than 2 people reside at the property, an example being the mailboxes in the hallway. Ms Edwards and the other occupants live collectively. They look out for one another. They share food and eat together. They all have families who are far away. Ms Edwards is involved in some local community initiatives. She wants to stay together with the other occupants. That would be an ideal situation. They have been unable to identify alternative accommodation, either together or separately.
- 24 In response to cross-examination from Miss Wooley, Ms Edwards explained that she did not know the Applicant nor his living situation so could not

comment on whether it was reasonable for him to want a larger property. She did concede that it would be reasonable for him to want more space for his family. However, Ms Edwards and her flatmates also lived together as a family and need space. Ms Edwards accepted that she was aware that the Applicant wanted his property back over a year ago but it had been very difficult to find alternative accommodation.

## **Dominique Rivard**

- 25 Ms Rivard lived at the property with the Respondents. She has been friends with the first Respondent for around 5 years. She had lived at the property for 3 years. There are 6 people living there. Ms Rivard temporarily moved out of the property to live with friends around 10 months ago, but wants to move back in. She is not named on the lease. She paid rent to a previous occupant before the first Respondent took over. The Applicant had been around to the property on a few occasions. He was often there to speak with the first Respondent. Ms Rivard had opened the door to him when he rang the bell. He had never questioned what she was doing there. There was clear evidence of multiple occupancy, for example the individual mailboxes and bikes in the hallway. Ms Rivard wants to return to living in the property. It is a communal household where they all share domestic chores such as shopping and cooking. She and her flatmates have known each other for a long time. They live as a family together. They have connections in the local community. Ms Rivard works for a non-profit organisation raising money for causes within Glasgow. Ms Rivard and her flatmates do not have alternative accommodation. It had been difficult to find places to rent with enough bedrooms. There is a lot of competition for flats of that size.
- In response to cross-examination from Miss Wooley, Ms Rivard explained that she had left the property due to the stress of the eviction after returning from Canada. She has been living with friends for the last few months. Her plan is to return to Shields Road once she is sure what is happening with the eviction process. She doesn't know anything about the Applicant's situation. She has known since last year that he wants the property back. She has been searching for accommodation but it has been difficult to find a large enough property to accommodate everyone. She accepts that the Applicant may be facing the same issue but he is in a different situation, being a property owner.

#### **Submissions**

- 27 Having heard the oral evidence, and due to the lateness of the hour, the Tribunal adjourned the hearing and directed parties to submit their written submissions within seven days.
- On 20 October 2025 the Tribunal received written submissions from the Applicant. On 24 October 2025 the Tribunal received written submissions from the first Respondent. No written submissions were received from the second Respondent.

# Findings in fact

- The Applicant is the owner and landlord, and the Respondents are the tenants, of the property in accordance with a private residential tenancy agreement.
- 30 The Applicant has given the Respondents a notice to leave that includes ground 4.
- The Applicant has sent the local authority a notice under section 11 of the Homelessness etc (Scotland) Act 2003 at the time of making this application.
- 32 The Applicant intends to live in the property for at least three months from the date of the Respondents vacating.
- 33 The Applicant purchased the property for himself and his family. The Applicant subsequently let out the property after his wife fell ill and his caring responsibilities increased. The Applicant's wife has since passed away.
- The Applicant currently resides in a two bedroom property with his mother in law, his two adult sons, and his adult daughter and teenage daughter. The Applicant's current property is overcrowded.
- 35 The Applicant's mother in law has mobility issues. The Applicant's mother in law has difficulty entering and leaving the Applicant's property, which is on the first floor. The Applicant's mother in law's quality of life has deteriorated.
- The Applicant's current living arrangements have had, and are having, a significant impact on the Applicant's adult children. They have no personal space. The Applicant's eldest daughter is studying medicine. She has failed exams due to a lack of private space to study. The Applicant's daughters are unable to entertain friends.
- 37 The Applicant owns his current property. The Applicant cannot secure a mortgage to purchase a larger property to accommodate his family. The Applicant cannot find a suitable rental property in their desired area.
- The Respondents reside in the property with four flatmates. The Respondents and their flatmates live collectively as a group and derive significant benefits from this arrangement. The Respondents and their flatmates want to continue to reside together.
- The first Respondent is pregnant and due to give birth in April 2026. The first Respondent has previously suffered a number of miscarriages.
- The Respondents and their flatmates are both involved in the local community. Most are employed in the local area and participate in volunteering and other charitable activities.

- 41 The Respondents have attempted to purchase a property but have been unsuccessful. The Respondents have made efforts to secure alternative housing in the private rented sector but have been unsuccessful.
- The Respondents have been advised by the local authority that they will not be offered assistance until such time as an eviction order is granted by the Tribunal.

### Reasons for decision

- The Tribunal carefully considered all of the oral and documentary evidence, submissions and authorities before it in reaching its decision.
- 44 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 Respondent 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.
- 45 The Tribunal went on to consider the wording of ground 4:-
  - "(1)It is an eviction ground that the landlord intends to live in the let property.
  - (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if— (a) the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months, and (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
  - (3) References to the landlord in this paragraph— (a) in a case where two or more persons jointly are the landlord under a tenancy, are to be read as referring to any one of them, (b) in a case where the landlord holds the landlord's interest as a trustee under a trust, are to be read as referring to a person who is a beneficiary under the trust.
  - (4) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the landlord has that intention."
- The Tribunal accepted based on the documentary and oral evidence that the Applicant intends to live in the let property for at least three months as his only or principal home. The Respondents did not put forward any evidence to directly challenge this. The ground for eviction based on the Applicant's intention to live in the property was therefore established.
- The Tribunal had to thereafter consider whether it was reasonable to grant an eviction order in the particular circumstances of this case, by balancing the

- evidence which has been presented and weighing the various factors which apply to the parties.
- It should be said that the Tribunal found all of the witnesses to be generally credible and straightforward in their evidence at the hearing. It was clear that both sides were facing challenging and stressful circumstances, and the Tribunal had sympathy for all parties involved.
- 49 The Applicant is however the owner of the property. It was clear from his evidence that he has an acute need for the accommodation, based on his current living arrangements. The Tribunal accepted that this is an untenable situation, and one that could be resolved if the Applicant was able to move into the property at Shields Road with his family. His current property is overcrowded. It was having a significant impact on the health and wellbeing of his family, as supported by the documentary evidence and the oral evidence from his mother and law and his eldest daughter. His daughter's evidence was particularly persuasive. She spoke at length about the disruption to her living arrangements, her studies and her personal life. The Tribunal could reasonably conclude that all four of the Applicant's children were facing similar issues given their cramped living conditions. Whilst such accommodation may have been tolerable when the children were younger, it was clear that this was no longer the case. The Tribunal also took into account the Applicant's mother in law's health issues. The Tribunal accepted that whilst she would likely continue to suffer from mobility problems, a move to a larger ground floor property would provide some relief and improve her quality of life.
- The Tribunal considered that there was no need for the Applicant to have evidenced that he has exhausted every other housing option prior to seeking repossession of the property, albeit he has evidently pursued other avenues before doing so. It would appear unreasonable to expect the Applicant to incur the additional costs associated with sourcing alternative accommodation when he is already the owner of a property that will meet the needs of his family.
- The Tribunal carefully considered the Respondents' circumstances, their links to the community and their strong desire to remain within the family unit they had created, which was supported by the evidence from their flatmates. The Tribunal took into account the first Respondent's pregnancy and the risks of miscarriage that may be exacerbated by stress.
- However, taking all relevant factors into account in assessing reasonableness, the Tribunal ultimately gave greater weight to the Applicant's circumstances in assessing the reasonableness of an eviction order. He had given genuine and compelling reasons for seeking repossession of the property. He purchased it with the intention of it being his family home. The Tribunal considered that he should have the right to occupy it as such in order to provide a suitable home for himself and his family. The Tribunal accepted that the Respondents have struggled to find a property of a suitable size to accommodate their desired group. However, there is no evidence to suggest they would face similar challenges were they to pursue housing individually or in smaller groups.

- For the avoidance of doubt, the Tribunal accepted that the Applicant had been aware of the number of occupants in the property however the Tribunal did not consider this to be a significant factor in the assessment of reasonableness. The Tribunal further noted that lack of a HMO licence for the property but accepted that this was due to ignorance on the Applicant's part. The Tribunal did not consider either of these to be factors that would weigh against the reasonableness of making an eviction order.
- The Tribunal therefore determined that ground 4 had been met and determined to make an eviction order.
- The Tribunal did however have regard to the upcoming festive period and the Respondents' requirement to secure alternative accommodation. Balancing the interests of the parties and taking into account the length of time the Tribunal proceedings have been ongoing, the Tribunal considered it would be reasonable to allow a suspension of the execution of the order for a period of two months to provide the Respondents with time to secure alternative accommodation.
- 56 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.

# Ruth O'Hare

	19 November 2025
Legal Member/Chair	Date