

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/25/2103

Re: Property at 5 Irvines Square, Dundee, DD1 1HA (“the Property”)

Parties:

Ms Bharati Patel, 31 York Road, Middlesex, HA6 1JJ (“the Applicant”)

Eseoghene Tunji-Joseph, Adetunjii Joseph, 5 Irvines Square, Dundee, DD1 1HA (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member) and Gordon Laurie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondents from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 13 October 2025 informing both parties that a CMD had been assigned for 25 November 2025 at 2pm, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and

considers the procedure to have been fair. The Respondents were invited to make written representations by 3 November 2025. No representations were received.

4. On 24 and 25 November 2025, the Tribunal received written representations from the Respondents.

The case management discussion – 25 November 2025

5. The CMD took place by conference call. The Applicant was represented by Ms Hazel Young. The Respondents joined the conference call and represented themselves. The Tribunal explained the purpose of the CMD.
6. The Respondents advised that they oppose the application for an eviction order. However, they went on to explain that they are not happy living in the Property, given the condition of it. They live in the Property with their 15 year old son. They are actively looking for another rental property. They are residing in the UK under a graduate visa and they understand that they are not entitled to local authority housing. They expect to be in a position to find alternative accommodation within 3 months and they wish more time in the Property to enable them to do that. The Respondents reported repairing issues to the local authority and that resulted in the local authority issuing a letter to the Applicant in relation to work required in the Property. Their position was that the Applicant has not undertaken all of the work specified by the local authority. The Tribunal explained that the Applicant's position according to the application is that vacant possession is required before the work can be carried out. The Respondents accepted that the work is required but reiterated that they want more time in the Property to allow them to find other accommodation.
7. The Applicant's representative advised that the contractor who provided a quotation for the required works recommended that vacant possession be obtained before the work commences. The reason for this is that chemicals will be used throughout the Property and it may take 3 or 4 weeks for the work to be completed. There is damp and mould in every room. The temporary measure which has been deployed by the Applicant is the installation of a ventilation system and whilst that has helped a little, the work identified by the contractor is still required. The Tribunal enquired whether the Applicant had any difficulty with the Respondents remaining in the Property for a longer period. The Applicant has no difficulty with the Respondents remaining longer so that they can find alternative accommodation.
8. The Tribunal adjourned the CMD briefly to enable the members to consider the submissions made by both parties. When the CMD was reconvened, the Tribunal explained that the members found that the ground of eviction had been established and that it was reasonable to grant the order for eviction. In light of the Respondents' circumstances, the Tribunal decided to extend the period of charge for removal by a period of 3 months.

Findings in Fact

9. The parties entered into a private residential tenancy which commenced 7 April 2024.
10. The Applicant served Notice to Leave on the Respondents by email on 13 February 2025.
11. The Applicant intends to refurbish the Property.

Reason for Decision

12. The Tribunal was satisfied that it could make relevant findings in fact in order to reach a decision following the CMD, and that to do so would not be contrary to the interests of the parties in this case.
13. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicants relied upon ground 3 of the Private Housing (Tenancies) (Scotland) Act 2016. Although the Respondents indicated that they oppose the application, they sought more time to find alternative accommodation. The information before the Tribunal was that the Applicant intends to have significant work carried out in the Property and that vacant possession is required before the work can begin. The Tribunal was satisfied that the ground for eviction was established. The Applicant recognises that work is required to improve the condition of the Property. The Respondents do not like living in the Property, given the condition of it. They are actively looking for another privately let property. In light of the information provided by both parties, the Tribunal found that it was reasonable to grant the order for eviction.
14. Having decided that it is reasonable for an order for eviction to be granted, the Tribunal considered delaying the execution of an eviction. The Tribunal granted the Respondents' request for more time. This gives both parties certainty as to when an eviction can take place but also affords the Respondents slightly longer to find alternative accommodation. In terms of section 216(4) of the Bankruptcy and Diligence etc Scotland Act 2007, the Tribunal varied the period of charge by extending it for 3 months.

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 Irvine

Legal Member/Chair

25 November 2025
Date