

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision 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/25/1371

Re: Property at 6 Ellerslie Crescent, Glasgow, G14 0NY (“the Property”)

Parties:

Mrs Samina Matloob and Mr Muhammad Matloob, both 3 Bernisdale Gardens, Glasgow G15 8BU (“the Applicants”)

Ms Demi McGrotty and Mrs Elizabeth Connelly, both 6 Ellerslie Crescent, Glasgow, G14 0NY (“the Respondents”)

Tribunal Members:

George Clark (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondents.

Background

1. By application dated 1 May 2025, the Applicants sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Ground relied on was Ground 5 of Schedule 3 to the Act, namely that a member of the landlord’s family intends to live in the Property. They stated that they live in their 4-bedroom house with their five children. One of their daughters is studying medicine at Glasgow University. The work is very intense, and she needs a quiet space to study. They added that the Property is only 20 minutes by bus from the University.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 27 September 2022, and a Notice to Leave dated 23 December 2023 advising the Respondents that an application to the Tribunal under Ground 5 would not be made before 21 March 2025. The Applicants later provided an Affidavit dated 23 June 2025 by their daughter, Maria Matloob, in which she confirmed that she is 19 and is a second-year medical

student at Glasgow University. There are 7 people living in her house and she shares a bedroom with her 15-year-old sister. She has found that she has been unable to study at home as there is a lack of space and the environment is not quiet enough for her to focus on her studies. She has agreed with her parents to move into the Property as this will allow her the space and peace required to allow her to focus on her studies. The Property also benefits from more readily available public transport to and from the University.

3. On 3 November 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 24 November 2025. They did not make any written representations by that deadline, but on 19 December 2025, they advised the Tribunal that they contested the application based on Ground 5 and that the real reason the Applicants wanted them evicted was that they (the Respondents) had failed to carry out building repairs which should be the responsibility of the Applicants as landlords.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 7 January 2026. All Parties were present.
5. The Applicants told the Tribunal that their position remains unchanged. They confirmed that the Property is the only residential property they own, apart from their own home. They stated that there are seven people residing in the property, including their four-year-old son, and that their daughter requires her own space to study. They further stated that their other daughter, now aged 16, may move with her. They described the eviction process and the level of rent arrears as very stressful. The Respondents now have rent arrears of over £24,000 and have paid no rent since March 2024. In response to questions from the Tribunal, the Applicants stated that they were unaware that they could have raised the eviction application on the ground of rent arrears.
6. The Respondents contended that the application was a sham and that the Applicants did not intend their daughter to move into the Property, which is a 4-bedroom house. They said that the real reason was that the Applicants wanted the Respondents to pay for repairs which were a landlord's responsibility, in particular a cracked external pane of glass in the fixed pane double glazed window in the lounge and a leak in the garage roof. It was also stated that the cooker had not worked for some time. They contended that the Applicants had failed to carry out repairs but provided no evidence of the Applicants having asked them to pay for any work and confirmed that they had not in fact paid for any such repairs. They commented that the accommodation in the Property is much more than a single student requires. They told the Tribunal that Mrs Connelly has been a tenant of the Property for 17 years, with a new tenancy agreement having been entered into in 2022 to make it a joint tenancy. Ms McGrotty had a disability. Her 10-year-old daughter lives with the Respondents, and a nephew stays overnight from time to time. The Respondents accepted that they have paid no rent since March 2024, but contended that they have been withholding rent, as the Applicants have not been carrying out repairs to the Property. In response to questions from the

Tribunal, the Respondents stated that they had been advised by a solicitor in Yoker to stop paying rent until repairs were carried out. They further stated that they had set aside approximately £16,000 received from Universal Credit for housing costs to put towards the rent but were unsure of the total sum owed.

7. The Tribunal commented that both parties should be aware that, were it subsequently found that the Applicants did not intend for their daughter to live in the property, the Respondents could bring an action for wrongful eviction. The Applicants stated that they were aware of this and again confirmed that their daughter would be moving into the property if the application were granted.

Reasons for Decision

8. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
9. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies.
10. Ground 5 of Schedule 3 to the 2016 Act provides that it is an eviction ground that a member of the landlord's family intends to live in the let property and that the Tribunal may find that Ground 5 applies if the landlord's family member intends to occupy the let property as their only or principal home for at least 3 months and the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of that fact. Ground 5 goes on to state that evidence tending to show that the landlord's family member has that intention includes an Affidavit stating that intention. The Ground applies to "qualifying relative" the definition of which includes a child of the landlord.
11. The Tribunal was satisfied from the evidence provided, including the Affidavit from Miss Matloob, that the Applicants' daughter intends to live in the Property. The Respondents provided no evidence to challenge this, other than a vague assertion that some repairs were outstanding and this was the real reason for the eviction. The Tribunal did not accept this. Accordingly, the only matter for the Tribunal to decide was whether it would be reasonable to issue an Eviction Order.
12. The Tribunal noted that the present living arrangements for the Applicants and their family are not satisfactory in respect of their daughter, who shares a bedroom and has no private space in which to study peacefully. The Property has 4 bedrooms, so is probably larger than the Applicants' daughter requires, but it is the only residential property that the Applicants own, apart from their own home.
13. The Tribunal noted the Respondents' personal situation, including Ms McGrotty's statement that she suffers from a disability, but also that the Respondents had provided no evidence to refute the Applicants' statements regarding their present

accommodation or the veracity of the Applicants' daughter's Affidavit, in order to support their claim that the Applicants had an ulterior motive in seeking an Eviction Order.

14. The view of the Tribunal was that it was relevant, in determining the reasonableness test, to consider all the facts and circumstances. These included the very high amount of unpaid rent. The Respondents had not indicated that they regarded the Property as uninhabitable and they had continued to live there throughout the tenancy. There may have been issues regarding repairs, but the Respondents did not appear to have intimated to the Applicants that they were withholding rent or seeking a partial abatement of rent and, whilst the Tribunal would only have inspected the Property in relation to any application for a Repairing Standard Enforcement Order, the alleged outstanding repairs, which related to a broken window pane, problems with a cooker, and a leak in the garage, did not render the Property uninhabitable. Accordingly, the Respondents' failure to pay any rent at all for a period approaching two years should be taken into account in objectively balancing the rights and interests of the Parties when determining whether it would be reasonable to issue an Eviction Order.
15. Having considered carefully all the evidence before it, the Tribunal decided that it would be reasonable to issue an Eviction Order. The deciding factors were the need for adequate provision for the Applicants' adult daughter, who is having to share a bedroom and has nowhere at home to study in peace and the fact that the Property is the only residential property owned by the Applicants, apart from their own home. The view of the Tribunal was that, on balance, these factors, along with the amount and duration of the rent arrears, outweighed the situation of the Respondents, who would be in a position to apply to the local authority to be rehoused if an Eviction Order was issued against them.
16. As there was a delay of 5 days between the Case Management Discussion and the date of this Decision, the Tribunal decided that this should be reflected in the Eviction Order and the earliest date on which it can be enforced should be 16 February 2026.
17. The Tribunal's Decision 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.

George Clark

Legal Member/Chair

12 January 2026
Date