



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 (“the 2016 Act”) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”)

Chamber Ref: FTS/HPC/EV/25/2061

Re: Property at 137 Maxwell Drive, Glasgow, G41 5AE (“the Property”)

Parties:

Mrs Farzana Rasool, Flat 0/2, 36 Clifford Street, Glasgow, G51 1PA (“the Applicant”)

Mr Mohammed Sarfraz, Mrs Zabeeda Kousor, 137 Maxwell Drive, Glasgow, G41 5AE (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the property be granted.

Background

1. By application received on 14 May 2025, the Applicant applied to the Tribunal for an order for recovery of possession of the property in terms of Section 51 of the 2016 Act. Recovery was sought on the basis of Ground 4 of Schedule 3 to the 2016 Act (landlord intends to live in the property) and Ground 12 (rent arrears owing for over three consecutive months). Supporting documentation was submitted with the application, and subsequently, including a copy of the tenancy agreement and Notices to Leave, a detailed supporting statement from the Applicant, a GP report in respect of the Applicant’s husband, correspondence to the Respondents regarding the rent arrears and statements showing the rent arrears owing.

2. The application was subsequently accepted by a Legal Member of the Tribunal acting with delegated powers from the Chamber President who issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations dated 12 June 2025.
3. Notification of the application was then made to the Respondent and the date, time and arrangements for a Case Management Discussion (“CMD”) were intimated to both parties, advising of the date by which any written representations should be lodged. Said notification was served on the Respondent by Sheriff Officer on 10 November 2024. No representations were lodged by the Respondent prior to the CMD.
4. Further documentation was lodged on behalf of the Applicant with the Tribunal prior to the CMD, being copies of identification for both Respondents and copies of further correspondence sent to the Respondent regarding the updated rent arrears.

Case Management Discussion

5. A Case Management Discussion (“CMD”) took place by telephone conference call on 8 February 2026 at 2pm, attended only by the Applicant, Mrs Farzana Rasool. The Tribunal delayed the commencement of the CMD for five minutes to see if the Respondent would join late but they did not do so.
6. Following introductions and introductory remarks by the Legal Member, Mrs Rasool confirmed that she had had no contact from the Respondent since December 2024. She has family who reside nearby and they have seen cars parked on the driveway of the Property. She is certain the Respondent is still in occupation. They are a husband and wife, with four or five children, although the older child may have moved out now. They have lived there since 2015, originally under a Short Assured Tenancy, in respect of which the landlord was Mrs Rasool’s brother. The Property was originally Mrs Rasool’s family home and her brother owned it until selling it to her in 2024, with the Respondent as sitting tenant. It had always been intended to be sold to a family member. The Respondent had always been in receipt of Housing Benefit and when Mrs Rasool bought the Property, the Respondent said they needed a new lease to show the benefits agency, so a Private Residential Tenancy was entered into, commencing on 20 December 2024. The rent was £1,800 per calendar month. There were already rent arrears of around £3,000 owing when Mrs Rasool took on the Property and she has tried since to resolve the rent arrears situation with the Respondent. However, they have not engaged with her. She has written to them every month regarding the arrears by recorded delivery post and reference was made to the copy letters and proof of posting lodged with the Tribunal. She had also tried telephoning and messaging both Respondents but her number has been blocked by Mr Sarfraz and her subsequent telephone and Whatsapp messages left with his wife, Mrs Kousor, have not been responded to. When this application was raised, the rent arrears amounted to £7,423.27 but some payments of Housing Benefit were subsequently received and the balance reduced to £2,340.94 by December 2025. However, another rent

payment of £1,800 has since become due and there have been no further payments of housing benefit, so the arrears have risen again and currently amount to £4,140.94. Mrs Rasool has been given no explanation for the rent arrears and has had no direct contact from the benefits agency.

7. As regards Ground 4, reference was made to the personal statement from Mrs Rasool and the GP letter lodged in respect of her husband's health conditions and medical history. Mrs Rasool provided detailed information regarding her husband's condition which has not been narrated in full due to the sensitive and personal nature of some of the information. Mrs Rasool's husband had first been diagnosed with cancer in 2018 and since then has had several operations, complications arising and different forms of treatment. Investigations and treatment are ongoing. His condition and some of the treatments have left him in a lot of pain and discomfort. He finds it very difficult to sleep due to pain and suffers from depression. Mrs Rasool cares for him and has to get other family members to help out if she is away. They live with their three children, aged 22, 20 and 16 in a three-bedroom tenement flat with one bathroom near Ibrox stadium in Glasgow, which is not suitable for her husband's needs or the needs of the other family members. There is insufficient space and privacy for them all. Her two sons require to share a bedroom, one bathroom is insufficient as her husband really needs his own bathroom, and there is only one living room. Due to his sleeping difficulties, her husband often falls asleep on the sofa in the living room, which means that the other family members cannot use that room. There is no garden. There is a lot of noise from Ibrox and in the surrounding area, which makes it more difficult for her husband to sleep or relax. Parking is very difficult, particularly when football matches are on, and they often cannot get a space near their flat. This is very difficult for her husband as they frequently have to attend hospital for treatment and her husband's mobility is not good. It is a very stressful way of living for them all. This is why they wish to move into the Property and live there and is why Mrs Rasool purchased it from her brother. They have not paid him the full purchase price but intend to sell their current flat and pay him the sale proceeds of that. The Property has much more space and is far more suitable for their needs. It has four bedrooms, two bathrooms and two living rooms. It has a garden and is situated in a quiet residential area, with parking. This would greatly improve their living conditions.
8. Both Mrs Rasool and her husband have had to give up work, although she is only in her earlier fifties and he in his late forties. Mrs Rasool's own health has also deteriorated and she is on medication. They are entirely reliant on their rental income. Apart from this Property, they own several other properties but none of these are suitable for the family's needs and all are currently let out. Mrs Rasool has two flats, a one-bedroom and a two-bedroom and she and her husband also have two two-bedroom flats in Thornliebank and a two-bedroom house in Thornliebank which also has an attic conversion which can be used as a bedroom. They also have a three-bedroom, one bathroom conversion property which they let out as an Air BnB. The Air BnB property is the same size as their current property and only has one bathroom, so would be no better for them. They require to move into the Property as soon as possible to live in as their family home.

9. The Tribunal Members adjourned to discuss the application in private and, on re-convening, confirmed that they had decided to grant the eviction order sought. They were satisfied that the ground for eviction was met and that it was reasonable, in the circumstances and, in the absence of any opposition from the Respondent, for the eviction order sought to be granted at the CMD.
10. The Legal Member confirmed that the Tribunal's Decision would be issued in writing and explained briefly the procedure and 30-day appeal period which would follow. Mrs Rasool was thanked for her attendance at the CMD.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 20 December 2024, although the Respondent had occupied the Property under a previous tenancy, with a different landlord, since around 2015.
3. A Notice to Leave (specifying Ground 4) dated 7 January 2025 was served on the Respondent by Sheriff Officer on 10 January 2025, specifying the earliest date a Tribunal application could be lodged as 5 April 2025.
4. A second Notice to Leave (specifying Ground 12) dated 8 March 2025 was served on the Respondent by post on 11 March 2025 (posted on 10 March 2025), specifying the earliest date a Tribunal application could be lodged as 11 April 2025.
5. The Tribunal Application was received on 14 May 2025, specifying both Grounds 4 and 12.
6. The Applicant intends to live in the Property as their only or principal home for at least 3 months.
7. The Applicant's husband has serious ongoing health issues and the Applicant cares for him full-time.
8. The Applicant and her husband also have three older children living with them.
9. The Property is larger and more suitable for the needs of the family than their current accommodation.
10. The Property was acquired by the Applicant from her brother (the original landlord) with a view to living there with her husband and family.
11. The Respondent has been in rent arrears for three or more consecutive months and is in arrears amounting to more than one month's rent.

12. The rent is £1,800 per calendar month and arrears currently amount to £4,140.94.
13. The rent account has been continuously in arrears since the Applicant acquired the Property and entered into the tenancy with the Respondent on 20 December 2024.
14. The Respondent has not engaged with the Applicant regarding the rent arrears.
15. The Respondent continues to reside in the Property.
16. The Respondent did not lodge any written representations or attend the CMD.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers, including the application and supporting documentation, the further documentation lodged on behalf of the Applicant prior to the CMD and the oral representations made by the Applicant at the CMD.
2. The Tribunal found that the application was in order and that both notices had been served in proper form and timeously and in accordance with the terms of the tenancy agreement and the legislation. The Tribunal was also satisfied that both grounds of eviction, that the landlord intends to live in the let property (Ground 4) and that there had been rent arrears owing over three consecutive months (Ground 12) had been met.
3. The Tribunal was satisfied that the Applicant intends to occupy the Property as her only or principal home for a period of at least three months and that it was reasonable to issue an eviction order in the circumstances. In considering both the ground of eviction and the issue of reasonableness, the Tribunal had particular regard to the detailed submissions from the Applicant regarding her husband's health, his current condition and the impact the limitations of their present accommodation are having on the living circumstances and wellbeing of the Applicant's husband, herself and their three children, two of whom were adults. The Applicant's submissions were supported by medical evidence which had been produced. The Applicant had also provided detailed information regarding the benefits of them moving into the Property where they intend to live as a family, not only in terms of the Property itself and its amenities but also in respect of its location and the surrounding area. Other members of the Applicant's family live nearby and she sometimes relies on them for support with looking after her husband. The Tribunal considered the Applicant's reasons for wishing to recover possession of the Property and moving into it as soon as possible to be compelling. The Tribunal was also satisfied that, although the Applicant own and rent out other properties, none of these were suitable for the family's needs, in terms of size and amenities. The Applicant also requires to repay her brother in respect of her acquisition of this Property from him from the sale proceeds of their current flat.

4. The Tribunal also considered that all requisite elements of the rent arrears ground had been met. The Tribunal was satisfied that the Respondent had been in arrears continuously over a lengthy period and, in fact, were already in arrears of around £3,000 when the Applicant acquired the Property and took them on as tenants in December 2024. Since then, the arrears had reached over £7,000 when this application was lodged and had then decreased to below £3,000 but had now risen again. The Applicant and her husband can no longer work due to his health conditions and the Applicant's caring responsibilities. They are reliant on rental income from this and their other rental properties and are therefore impacted financially by these arrears. Although the Respondent was in receipt of Housing Benefit, there was no indication that the Respondent's failure to pay rent was due to any failure/delay in payment of state benefits. It was clear that the Applicant had sought to engage with the Respondent throughout regarding the arrears and had taken steps to try and resolve the situation with them, to no avail. The Tribunal was satisfied that she had done all she reasonably could in respect of the pre-action protocol in respect of rent arrears. The Respondent had failed to engage with the Applicant or take any other steps to resolve the arrears situation. The Respondent had not entered into the Tribunal process by lodging any representations and nor did they attend the CMD. The Tribunal therefore had no material before it either to contradict the Applicant's position nor to advance any reasonableness arguments on behalf of the Respondent. The Tribunal accordingly determined that an order for recovery of possession of the Property on both grounds could properly be granted at the CMD as, in the circumstances, there was no need for an Evidential Hearing.

5. 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.

Nicola Weir

Legal Member/Chair

Date 8 February 2026