

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**Chamber Ref: FTS/HPC/PR/24/5412**

**Re: Property at 74 Craigielea Road, Duntocher, G81 6HR (“the Property”)**

**Parties:**

**Miss Sarah Nicholson, 7 Tweedvale Place, Glasgow, G14 0QJ (“the Applicant”)  
and**

**Miss Patricia Toland, 15 Buchanan Avenue, Balloch, G83 8ED (“the  
Respondent”)**

**Tribunal Members:**

**G McWilliams, Legal Member**

**G Darroch, Ordinary Member**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent to the Applicant, in the sum of £2,100.00 should be made in terms of Sections 58 and 59 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

### **Background and Case Management Discussion on 5th June 2025**

1. The Applicant had applied under Rule 110 of the First-tier Tribunal for Scotland Housing and Property Rules of Procedure 2017 (“the 2017 Rules”) (Application for a Wrongful Termination Order).
2. A Case Management Discussion (“CMD”) had proceeded remotely by tele-conference call on 5th June 2025. Reference is made to the Notes on that CMD.

### **Evidential Hearing on 26th January 2026**

3. An evidential Hearing proceeded in person at the Glasgow Tribunals’ Centre at 10.00am on 26th January 2026. The Applicant attended with her mother Mrs M Nicholson and her partner Mr D Langan as supporters. The Respondent attended with her brother Mr J Toland as a supporter.
4. The Applicant referred to the Application papers and her e-mails sent to the Tribunal’s office on 6th and 18th January 2026. She said that she wanted the terms of those e-mails to be treated as her principal evidence in support of her Application. In response to questions from the Tribunal the Applicant stated that she had not contacted the Respondent following service upon the Applicant of a Notice to

Leave (“NTL”) on 16th April 2024 and, in particular had had no communication with the Respondent in October and November 2024 when the Respondent said that she was resident in the Property. The Applicant said that following receipt of the NTL she had never received service of Tribunal Eviction Order Application papers. The Applicant stated that given the stress she was suffering as a result of Court and Tribunal proceedings involving the Respondent her Mum had invited her to return to reside with her and she did so on 10th October 2024. The Applicant stated that the Respondent had never resided in the Property and re-iterated that she wished the Tribunal to make a payment order in her favour in the maximum sanction amount, of six times her previous monthly rent for the Property (£350), being £2,100.00.

5. The Respondent referred to her previous e-mails sent to the Tribunal’s office, on 11th April 2025 and 15th January 2026. She said that she wished the terms of those e-mails to be treated as her principal evidence in respect of her opposition to this Application. The Respondent produced an undated message which she received from the Applicant, and which she said had been received during the contentious Court proceedings involving the parties from 2022 to 2024. She produced an iMessage which she had received from the Applicant’s partner on 15th August 2022, in which he enquired regarding the future possibility of the Applicant and himself buying the Property. The Respondent also produced a copy of the Applicant’s Defences in the Court proceedings. Copies of the papers produced by the Respondent were given to the Applicant after a pause in the Hearing.

6. In response to questions from the Tribunal the Respondent stated that she liaised with Eve Property Ltd letting agents around March 2024 in respect of the rental of the Property to the Applicant. She said that she was not liaising with the letting agents at that time in respect of her home at 15 Buchanan Avenue, Balloch. The Respondent stated that she was fearful of the Applicant and her partner given the tone and content of their communications. The Respondent stated that she had not received any communications from the Applicant or her partner, or anyone acting on their behalf, after service of the NTL and, in particular, during the period of three weeks or so from 16th October 2024 when the Respondent said that she had resided in the Property. The Respondent said that when she moved into the Property she intended to contact her local authority’s Council Tax Department but had not done so by the time she moved out. She said that she had not used removal agents to assist her moving into the Property and that she transferred her goods and belongings there in her vehicle. She said that she paid utility bills for the Property. She stated that she had not yet decided whether to rent or sell her home at Buchanan Avenue when she moved into the Property. She said that either option would have assisted her in improving her financial affairs. The Respondent stated that she had taken advice from Eve Property Ltd when commencing Tribunal eviction proceedings against the Applicant. The Respondent said that it was not sustainable for her finances for her to continue residing in the Property. The Respondent said that the Applicant received assistance from DWP in respect of her monthly rent of £350.00. She said that the market rent was around £750.00 per month. The Respondent stated that it was her intention to reside in the Property and, after she moved in, to continue residing there. She said that she then missed her home in Buchanan Avenue, which she had shared with the Applicant’s father until his death,

remained fearful of the Applicant and her partner and made the decision to return to Buchanan Avenue. She said that she decided to sell the Property and it was marketed for sale on or around 13th November 2024. The Respondent stated that she continues to reside in the home at Buchanan Avenue.

### **Findings in Fact and Law**

7. Having considered all of the documentary and oral evidence the Tribunal made the following findings in fact:
  - i) The Applicant previously rented the Property with a monthly rental sum of £350.00.
  - ii) An NTL was served on the Applicant on 16th April 2024.
  - iii) The Respondent stated in the NTL that she wished to recover possession of the Property in order to reside in it. The Respondent stated in an Eviction Order Application lodged with the Tribunal that she intended to reside in the Property.
  - iv) The Applicant vacated the Property and went to reside with her mother on 10th October 2024
  - v) The Respondent did not make the Property her principal residence after the Applicant left the Property. The Respondent did not carry out any action to cease her residence at the property at 15 Buchanan Avenue, Balloch at that time or at any time thereafter.
  - vi) The Respondent remains resident at 15 Buchanan Avenue.
  - vii) The Property was marketed for sale on 13th November 2024 and sold on 26th February 2025.
  - viii) The Applicant was misled by the Respondent into ceasing to occupy the Property. as the ground of recovery of possession referred to by the Applicant in Form NTL, and subsequent Tribunal proceedings, that she wished to reside there, was erroneous.
8. Having made their findings in fact the Tribunal found in law that the Applicant was misled into ceasing to occupy the Property by the Respondent as the Respondent did not intend to reside permanently in the Property. The Applicant's tenancy of the Property was terminated wrongfully. Accordingly, the Applicant is entitled to payment of compensation in the sum of £2100 from the Respondent.

### **Reasons for the Decision**

9. In terms of Section 58 of the 2016 Act a Tribunal may make a wrongful termination order if it finds that a former tenant was misled into ceasing to occupy let property by the landlord immediately before the tenancy was brought to an end. Section 59 of the 2016 Act provides that a wrongful termination order must be in an amount not exceeding six months' rent.

10. The Respondent, in the NTL and Tribunal Eviction Order Application which was submitted, whether or not the latter was intimated to the Applicant, stated her intention to reside in the Property. She stated that she had returned to reside in the Property for a period of around three weeks from 16th October 2024. She said that she did not contact her local authority's Council Tax Department to notify them of her change of residence. She stated that she did not use any removal agents to move into the Property but made journeys in her car to transfer her goods and belongings. She said that she had paid utility bills. The Respondent stated that she moved out of the Property after a few weeks, and decided to sell it immediately, as she was missing residing in her home at Buchanan Avenue, Balloch. She said that she remained fearful of the Applicant and her partner. The Tribunal did not find the Respondent's evidence to be credible. Her statements regarding residence in the Property, and her reasons for leaving it, were inconsistent with her action and inaction as well as the timing of her communications with the Applicant and her partner. She did not make arrangements to let or sell her home at Buchanan Avenue during the period that she said that she resided in the Property. She did not contact her local authority regarding her Council Tax obligations. She said that she paid utility bills for the Property but had not produced any copies for the Tribunal's assessment. The Respondent has not produced any documentation which supports her contention that she intended to reside in the Property. The Respondent said that she left the Property and returned to reside at her home in Buchanan Avenue, where she continues to live, because she missed the Buchanan Avenue property and as she was fearful of the Applicant and her partner. The Respondent accepted, however, that she had not had any communications with the Applicant and her partner following the service of the NTL, around six months before she said she began residing in the Property. The Tribunal did not find the Respondent's evidence of fearfulness to be plausible given the passage of time between the last communications between the parties and her stated decision to reside in the Property. In all the circumstances the Tribunal found that the Respondent had not established that she had intended to reside, or had resided, at the Property. The Tribunal was not satisfied that the Respondent had ever intended to permanently reside in the Property. The Tribunal therefore decided that the Applicant was misled into ceasing to occupy the Property.
11. Given the Tribunal's findings in fact and law they must order that the Respondent pays the Applicant an amount not exceeding six times the amount of the Applicant's rent for the Property, of £350.00.
12. The Tribunal require to decide on a fair proportionate and just sanction in this Application. They have rejected the Respondent's evidence of intending to permanently reside, or of having resided in, the Property, for the reasons stated in paragraph 10 above. The Property was placed on the market for sale some four weeks or so after the Applicant vacated it. The maximum amount of a payment order which the Tribunal can make, as a sanction for wrongful termination of the parties' tenancy, is six times the amount of the monthly rent sum of £350.00. Given their findings in fact the Tribunal cannot ascertain any

mitigation which would support a reduction of the maximum sanction amount. The Tribunal accept that, prior to the parties becoming involved in Court and Tribunal proceedings, the Respondent and her partner, the Applicant's late father, tried to assist the Applicant by buying and obtaining a mortgage for the Property in which the Applicant would reside. The Tribunal further accept that the Court and Tribunal proceedings between the parties have caused both of them, and their families stress, worry and expense. However, the Respondent decided to formally seek recovery of possession of the Property on the ground that she wished to reside in it herself. The Applicant left the Property after receiving formal papers in this regard. The Respondent's action, and inaction, were not in keeping with that intention and do not mitigate the circumstances of the wrongful termination. The Tribunal are not satisfied that the Respondent intended to make the Property her principal residence and have found that she did not do so. Therefore, the Tribunal have decided that there is no mitigation which reduces the level of sanction to be imposed. In the circumstances the Tribunal finds that the maximum amount of monetary sanction, of £2,100.00, fairly and reasonably takes account of the upset, anxiety and inconvenience caused to the Applicant. The Tribunal have decided that an order for payment by the Respondent to the Applicant of compensation in the sum of £2100 should be made.

### **Decision**

13. Accordingly, the Tribunal has determined that an order for payment by the Respondent to the Applicant in the sum of £2,100.00, in terms of Sections 58 and 59 of the 2016 Act, should be made.

### **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.**

**G McWilliams**  
**Tribunal Legal Member**

**4th February 2026**

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