



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/25/2755

Re: Property at 34 Tealing Avenue, Glasgow, G52 3BL (“the Property”)

Parties:

Mr Edward Murphy, 4 Lanfine Road, Paisley, PA1 3NL (“the Applicant”)

Mrs Susan Shields, Mr William Shields, 34 Tealing Avenue, Glasgow, G52 3BL (“the Respondents”)

Tribunal Members:

James Bauld (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted

Background

1. By application dated 25 June 2025, the applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the procedure rules”). On 19 August 2025 the application was accepted by the tribunal and referred for determination by the tribunal.
2. A Case Management Discussion (CMD) was set to take place on 29 January 2026, and appropriate intimation of that hearing was given to all parties.

The Case Management Discussion

3. The Case Management Discussion (CMD) took place on 29 January 2026 via telephone case conference. The applicant was not present but was represented by his letting agent Mr Robert Downie from LM Properties. The first named respondent, Mrs Susan Shields was present but the second named respondent, William Shields was not present.
4. The tribunal explained the purpose of the CMD, the overriding objective of the tribunal and the powers available to the tribunal to determine matters.
5. The tribunal asked various questions of the parties with regard to the application.

Summary of initial discussions at CMD

6. The tribunal noted that the eviction was sought under and in terms of ground 4 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016
7. That ground is currently in the following terms.

Landlord intends to live in property

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.

8. Parties both agreed that the respondents moved into the property in April 2021. Rent was initially £575 per month and has subsequently increased to £592.75.
9. The respondent accepted that she had received a Notice to leave via email from the applicant on 20 March 2025.
10. The applicant's agent indicated but the applicant still wishes to return to live in the property. He had previously been living with his partner but the relationship has ended and he is now living with his father. The applicant is in full time employment and has no dependent children.
11. The first named respondent, Mrs. Shields, indicated that she had lived in the property since 2021. The second named respondent, William Shields, is her son. He has now vacated the property and is living with his girlfriend. Mrs Shields indicated that she is now living in the property on her own. She works as a carer. She indicated that she has a number of ongoing health issues including COPD, arthritis and high blood pressure.
12. She is aware that the applicant wishes to return to the property
13. Mrs Shields indicated that she had sought advice from the local council. She has been advised that she has no priority at present with the council's homelessness team. It would appear that she has been told that she should not leave the property unless an eviction order was granted.
14. She further stated that she has made applications to local housing associations but has received no offer of accommodation. She has been in touch with the Wheatley Group who are the largest public sector landlord in Glasgow. She has currently been told that she is in Band F in their priority banding but has recently spoken to another adviser who has advised her that she should be in band B. On checking the website of the Wheatley Group

(which was done by the tribunal ordinary member during the CMD and discussed with parties), it was noted that they have an eight band priority system for applicants. Band F is a grouping which has no priority. Band B is a priority grouping for applicants who are statutorily homeless. It appears that the respondent should be Band B with this landlord.

15. Mrs Shields also indicated that she has made an application to another specific local housing association, namely Southside Housing Association. She indicated that it was their staff who referred her to the local council for assistance as a potentially homeless person. The respondent accepted that if an eviction order was granted that she would be better placed to obtain assistance from the local council and other housing providers in obtaining alternative accommodation.
16. The respondent indicated that she is in full-time employment. She has some significant health issues and would prefer a property that does not have internal stairs. She is seeking alternative accommodation solely for herself. Her son (the second respondent) has now moved to live with his girlfriend on a permanent basis.
17. The tribunal asked both parties whether they would wish the matter to be remitted to an evidential hearing or whether they would prefer the tribunal to make a decision based on the information contained in the application, and the information presented by them at the case management discussion. Both parties indicated they wished a decision to be made.
18. The applicant's agent indicated that he would prefer that a decision was made. He indicated that the applicant wanted his house back. He indicated that he sympathised with the respondent..
19. The respondent also indicated that she would prefer that a decision was made. She accepted that she was aware that her occupation of the property would require to end at some point

Findings in fact

20. The Applicant is the registered owner of the property.
21. The Applicant and the Respondents, as respectively the landlord and tenants, entered into a tenancy of the property which commenced on 9 April 2021.
22. The tenancy was a private residential tenancy in terms of the Act.
23. The agreed monthly rental was £575 and has subsequently increased to £592.72.
24. On 20 March 2025 the applicant served upon the tenants a notice to leave as required by the Act. The notice became effective on 15 June 2025. The notice informed the tenant that the landlord wished to seek recovery of possession using the provisions of the Act.
25. The applicant intends to live in the let property.

Discussion and reasons for decision

26. The ground for eviction under which this application was made is the ground contained in paragraph 4 of schedule 3 of the 2016 Act. The ground is that the landlord intends to live in the let property. When the 2016 Act was originally passed, that ground of eviction was mandatory. The tribunal was required by law to grant the eviction order if satisfied that the ground was established.
27. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on this ground can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
28. The only matter to be determined in this application is whether it is reasonable to grant the order.
29. The tribunal is satisfied that the applicant intends to live in the let property
30. The first named respondent has attempted to register with the local council and various local housing associations. She has engaged with the local council's homelessness prevention team and with staff at Wheatley Group. She has taken all appropriate steps to obtain alternative accommodation.
31. The order for possession was sought by the landlord on a ground specified in the 2016 Act and properly narrated in the notice served upon the tenant.

32. The tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon that ground.
33. The tribunal accepted the evidence of the applicant that he intends to live in the property.
34. The ground for eviction was accordingly established.
35. The Tribunal now has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the tribunal to grant the order or decline to grant the order will be relevant. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties. This is confirmed by one of the leading English cases, **Cumming v Danson**, ([1942] 2 All ER 653 at 655) in which Lord Greene MR said, in an oft-quoted passage:

“[I]n considering reasonableness ... it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad commonsense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account”.

36. In determining whether it is reasonable to grant the order, the tribunal is therefore now required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
37. The tribunal finds that it is reasonable to grant the order.
38. The tribunal accepts that the landlord intends to live in the property and wishes to do so. He is the owner of the property. He has suffered a relationship breakdown. He is currently living temporarily with his father
39. There is no presumption, as a matter of law, in favour of giving primacy to the property rights of the landlord over the occupancy rights of the tenant, or vice versa.

40. The first named respondent, Mrs Susan Shields, has already sought appropriate assistance from the local council. It is likely that she will only be fully assisted in obtaining alternative accommodation when an eviction order is granted and she faces actual homelessness. She is not generally opposed to the granting of the order. She accepts that the applicant as the owner of the property is entitled to recover possession.
41. The second named respondent, Mr William Shields, has already vacated the property and appears to have arranged alternative permanent accommodation
42. The tribunal will delay enforcement of the order until 30 March 2026. It is noted that the applicant's agent indicated that a slight delay will not significantly impact Mr Murphy. The delay will also give some additional time to Mrs Shields to obtain alternative housing from the relevant authorities or to seek appropriate advice relating to rehousing
43. The granting of the order may therefore ultimately (and almost counter intuitively) benefit the second named respondent in her attempts to obtain alternative suitable accommodation
44. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that the final order should be made at the CMD

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.

James Bauld

29th January 2026

Legal Member/Chair

Date