



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/25/0476

Re: Property at Flat 0/2, 14 Durward Court, Glasgow, G41 3RZ (“the Property”)

Parties:

Dr Wan Hock Cheah, 19 Glenpark Avenue, Glasgow, G46 7JE (“the Applicant”)

Mr Hugh Alam, Flat 0/2, 14 Durward Court, Glasgow, G41 3RZ (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Eileen Shand (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted and issued an Eviction Order against the Respondents.

Background

1. By application dated 28 January 2025, revised and re-submitted on 18 March 2025, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The sole Ground relied on in the amended application was Ground 1 of Schedule 3 to the 2016 Act, namely that the landlord intends to sell the Property.
2. The application was accompanied by a copy of a Notice to Leave dated 4 November 2024, but with proof of posting on 2 November 2024, advising the Respondent that an application to the Tribunal under Ground 1 would not be made before 28 January 2025, and an Agency Agreement with Slater Hogg & Howison, Estate agents, dated 5 November 2024. The Applicant did not provide a copy of the tenancy agreement. In the Notice to Leave, the Applicant stated that he intended to sell 12 Durward Court, but the Property was correctly identified in the “Let Property” section of the Notice to Leave as 14 Durward Court. He later provided proof of delivery of the Notice to Leave on 5 November

2024. The Applicant subsequently provided the Tribunal with an amended version of the Notice to Leave, dated 2 November 2024.

3. On 13 June 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 4 July 2025.
4. On 9 July 2025, the Respondent's agents, Castlemilk Law Centre, made written representations to the Tribunal. They identified the address error in the Notice to Leave and the fact that the Applicant had later sent an amended version, and invited the Tribunal to consider whether that error invalidated the Notice. They also provided a copy of a Private Residential Tenancy Agreement, not signed or dated by the Applicant. It did not contain a start date but stated that the first rent was due on 4 January 2018. The Applicant had stated in the Notice to Leave that the tenancy began on 3 January 2018. The Tenancy Agreement included Katrina Murray as a joint tenant along with the Respondent. The Respondent's representatives also contended that the Applicant had failed to comply with the Tenancy Agreement in that he had not issued receipts for rent payments received in cash from the Respondent and had not lodged the deposit in an approved tenancy deposit scheme. They stated reasons why the Tribunal might not regard it as reasonable to issue an Eviction Order, including health conditions of the Respondent and Ms Murray, confirmation that the Respondent's rent is paid through housing benefit, and that he uses the Property to exercise contact with his three young children, who stay with him during school holidays. They stated that the Respondent was unable to afford current rentals of properties equivalent to the present Property and that he had applied to local housing associations but had not been offered any properties. On 28 July 2025, the Respondent's representatives provided a copy of a medical report of 18 July 2025 from Ms Katrina Murray's doctor. It identified a number of physical health issues and stated that the threat of eviction had had quite a significant effect on her mental health.
5. On 22 July 2025, the Applicant made further written submissions to the Tribunal. He attached a copy of a Short Assured Tenancy Agreement and Form AT5, both signed and witnessed on 3 January 2018, and stated that the tenancy agreement provide by the Respondent had been falsely formulated and had not been issued by him. The Short Assured Tenancy Agreement named only the Respondent as tenant.
6. On 30 July 2025, the Respondent's representatives told the Tribunal that they had only received a copy of the Applicant's submissions earlier that day and had not had time to obtain instructions or to respond. They asked that the Tribunal limit its proceedings to deciding whether to admit the Applicant's submissions and then adjourn to a later date, to allow the Respondent to reply.

Case Management Discussion

7. A Case Management Discussion was held by means of a telephone conference call on the morning of 31 July 2025. The Applicant and his wife were present.

The Respondent was present and was represented by Ms Maureen Smith, principal solicitor, Castlemilk Law Centre. Ms Katrina Murray was also present.

8. The Tribunal Chair told the Parties that this was a case that must proceed to a full evidential Hearing, as two quite different tenancy agreements had been produced. Only one of them could be genuine and it would be necessary for the Tribunal to decide which version that was. If the agreement provided by the Respondent was preferred, the application would fall, as no Notice to Leave had been served on Ms Murray. If the agreement provided by the Applicant was the genuine document, it would be regarded as a Private Residential Tenancy Agreement, as it was dated 3 January 2018 and no Short Assured Tenancies could be created after 1 December 2017. In that case, it would only have been necessary for the Respondent to serve a Notice to Leave on the Respondent. The Tribunal was unable, on the basis of the evidence before it, to decide which tenancy agreement was genuine, so an evidential Hearing would be required and, in advance of that, the Parties would be directed to provide such further evidence as they could in support of their contention that their version of the tenancy agreement was genuine. Such evidence might include statements from those who had signed as witnesses, and the Parties should also consider calling them as witnesses at the Hearing. The Applicant might also wish to consider seeking legal advice and possible legal representation at the Hearing.
9. The Tribunal noted that the Respondent's rent was paid from housing benefit. The Respondent will have had to produce to Glasgow City Council a copy of a tenancy agreement in order to claim benefit. Accordingly, the Tribunal's Direction would require the Respondent to provide a copy of that agreement.
10. The Tribunal obtained confirmation from the Applicant that neither he nor his wife had ever owned a property at 12 Durward Court.
11. The Tribunal agreed to accept into evidence the written submissions of the Applicant made on 22 July 2025 and adjourned its consideration of the application to a full evidential Hearing. The Tribunal issued Directions to the Parties in the following terms:

1. The Parties are required to provide any further information and documentation that they wish the Tribunal to consider when determining which of the tenancy agreements provided by them is genuine. This should include such detail as they can provide regarding the process by which the tenancy agreement was drafted and sent to the Respondent and the arrangements, such as location, date and time that were made for signing it.

2. The Respondent is required to provide a copy of the tenancy agreement that he submitted to Glasgow City Council in support of his claim for housing benefit.

3. The Applicant is required to make such further submissions as he wishes, regarding personal circumstances, to support his contention that it would be reasonable to issue an Eviction Order.

The said documentation should be lodged with the Chamber no later than close of business 14 days prior to the date set for an evidential Hearing.

12. On 5 September 2025, the Applicant provided the Tribunal with a copy Tenancy Agreement, signed and witnessed. It was dated 3 January 2018. It bore to be a Short Assured Tenancy Agreement and the Applicant also provided a copy Form AT5 Notice, also dated 3 January 2018. It was signed by both Parties and the signatures were witnessed.
13. On 29 September 2025, the Applicant advised the Tribunal that there were accumulated rent arrears of £4,347 and, in the meantime, the Applicant would continue to have to pay high monthly factor's fees. The Applicant stated that he was 80 years old and in poor health, suffering from CPP arthritis, Type 2 diabetes and high blood pressure. He provided a letter from the Rheumatology Clinic of New Victoria Hospital in Glasgow, dated 14 February 2025, which confirmed likely diagnoses of diabetes, hypertension and ischaemic heart disease and referred to a previous coronary artery bypass graft.
14. On 7 January 2026, the Respondent's representatives, Castlemilk Law Centre, submitted amended Answers. They stated that Section 52(3) of the Act provides that an application for an eviction order against a tenant must be accompanied by a Notice to Leave which has been given to the tenant, but that the copy Notice to Leave which accompanied the present application was not the copy served on the Respondent, in that the Applicant had amended both the date of the Notice and the address of the Property in Part 3. The application did not comply with Section 52(3) of the Act, so should not be entertained by the Tribunal. The Notice stated that an application to the Tribunal would not be made before 28 January 2025, but, allowing 48 hours for postage, the notice period ended on 29 January 2025, so the earliest date of application would have been the following day, 30 January 2025. The Notice to Leave was, therefore, invalid and the case should be dismissed. Section 73 of the Act sets out that a minor error does not invalidate the document unless the error materially affects the effect of the document. The Respondent contended that the error in the present case did materially affect the effect of the document, because it effectively asked the Respondent to leave too early. The correct date is required by primary legislation and should not be excused by the Tribunal.
15. The Respondent stated that he now accepted that the relevant lease between the Applicant and the Respondent is the version lodged by the Applicant, which purports to be a Short Assured Tenancy dated 3 January 2018 and that the Private Residential Tenancy Agreement lodged by the Respondent is not the relevant lease. The reasons given for this discrepancy were not further investigated by the Tribunal, as they were not relevant to its Decision. The Respondent argued, however, that the Applicant was perfectly well aware from the start of the tenancy that Katrina Murray would also be living there, but accepted that the relevant tenancy agreement did not include her as a joint tenant, so the Applicant did not require to serve Katrina Murray with a Notice to Leave.
16. The Respondent's representations referred also to the issues of rent having been paid in cash, with no receipts given and the failure of the Applicant to lodge the Respondent's deposit in an approved tenancy deposit scheme. These matters were not considered by the Tribunal as they had no relevance to the

present application for an Eviction Order, nor had the information provided that the Respondent had made an application to the Tribunal for a Repairing Standard Enforcement Order.

17. The Respondent stated that the Applicant had not submitted any evidence to support his claim of ill health and that, as the Respondent is not defending the application on the basis of disability discrimination, the case of *Akerman-Livingstone v Aster Communities Limited [2015] UKSC15*, cited by the Applicant, is not relevant to the present application. The Respondent has widened his housing application with Sanctuary Housing to include Rutherglen, Toryglen and Battlefield as well as Shawlands. In addition to his applications to New Gorbals Housing Association and Cathcart & District Housing Association, he has made an application to Govanhill Housing Association, but no offers of accommodation have yet been made. The rent being charged by the Applicant was a matter for him. He seemed now to be alleging financial hardship but had provided no evidence of this to allow the Tribunal to consider whether it would be reasonable to evict. The Applicant was aware that the Respondent has children visiting the Property. They are his grandchildren, not his own children, as indicated in the original representations. They are accompanied during these visits by the Respondent's son. They live in Fraserburgh and only visit once or twice a year, for short periods.

The Hearing

18. An in-person Hearing took place at Glasgow Tribunals Centre on 14 January 2026. The Applicant attended and was supported by his wife. The Respondent also attended and was represented by Ms Maureen Smith of Castlemilk Law Centre.
19. The Tribunal Chair advised the Parties that this was an application for an Eviction Order based on one Ground only, namely that the Applicant intends to sell the Property. Accordingly, the Tribunal would not consider any representations regarding repairs issues or the requirement to lodge the deposit in an approved tenancy deposit scheme and would only take into account any established arrears of rent insofar as they related to the question of whether it would be reasonable to issue an Eviction Order.
20. The Applicant told the Tribunal that he is in poor health. He and his wife have a number of rental properties, some of which they have sold, He is too old for the stress of being a landlord and feels he can no longer look after properties. He has sold two flats and has nine left. In response to a question of why he selected the present Property to be sold, the Applicant stated that the rent is very low, but the Respondent disagreed when he raised the rent and, on that basis, he decided this was the next property to sell. He contended that the Respondent had not paid any rent following the increase until he was advised by Ms Smith, who wrote to him in November 2025 to say the Respondent had migrated on to Universal Credit as of October 2025. There were, he said, arrears of over £4,000.

21. Ms Smith asked the Tribunal to note that the whole idea that there are rent arrears was a contentious point.
22. In cross-examination, the Applicant stated that he had not considered selling the Property with the Respondent as a sitting tenant. He said that he was an engineer, not a medical doctor, and that he relied on rental income in retirement. All he wanted was the rents from his properties and for his tenants to comply with the terms of their tenancy agreements, including not sub-letting a room. He accepted that, when he changed his energy contract to British Gas, he tried to recover £50 per month for the boiler, as the rent was very low. Ms Smith referred the Applicant to the Respondent's health and to his unsuccessful attempts to obtain alternative accommodation and invited the Applicant to accept that, in all the circumstances, it would not be reasonable to issue an Eviction Order. The Applicant did not accept that proposition.
23. The Applicant then called his wife, Mrs Jeanette Cheah, as a witness. She told the Tribunal that the Applicant always consults with her in matters relating to the tenancies, but that her role was to deal with all the correspondence and typing emails and letters which he would then check before she sent them. The Applicant was not computer-literate and agreed with the Applicant's suggestion that, without her, he was lost. She helped with all legal matters, and it would be very difficult for the Applicant to deal with communications on his own.
24. The Applicant did not call any further witnesses.
25. Ms Smith then called the Respondent as a witness. He confirmed that he wished to defend the application on the basis that it would not be reasonable to issue an Eviction Order. He accepted that the document headed "Short Assured Tenancy" was the proper lease in this case. The Property is a two-bedroom flat with a present rent of £759 per month, which he had been paying directly to the Applicant in cash. The Applicant had always had his money, sometimes paid personally and on occasion handed to him by friends, when the Respondent had been unwell. He had never been given any receipts for rent payments. Katrina Murray "comes and goes" and had probably lived in the Property for about three years in total. The Applicant knew she was there, as he was in and out of the Property.
26. The Respondent referred to the state of repair of the Property over the past five years. He said the boiler is not serviced every year and the smoke alarms are not hard-wired. He wished to live with Ms Murray as she is his pal. They are not in a relationship. They had approached Shelter and Govanhill Housing Association but had not been successful in securing alternative accommodation. Private landlords want tenants who are working, and the Homelessness Unit at Glasgow City Council will not give them a house until they are evicted, as they are not homeless. He confirmed that he is living entirely on benefits. The ongoing stress regarding possible eviction was having a detrimental effect on his health. He advised the Tribunal that his grandchildren are 7, 6 and 3 years old and that they live in Fraserburgh and visit him during school holidays, usually staying for a week at Easter and a week in the summer.

He confirmed to the Tribunal that he has asked Housing Associations for a two-bedroom flat.

27. The next witness was Ms Katrina Murray. She confirmed that she lives in the Property "off and on". She and the Respondent have been friends for 20 years and the Applicant was aware that she was there. She wished to continue to share a flat with the Respondent, who had always been there for her, and they have applied for houses to Govanhill and Gorbals Housing Associations, but have to date, not been offered a property. She is in receipt of Universal Credit, with no disability element, but referred to various health issues and a letter from her GP which was with the Respondent's written representations. That letter included a comment that the threat of eviction had had a significant effect on the mental health of Ms Murray. Ms Murray confirmed that, at holiday times, the Respondent's son and grandchildren visit him and stay in the Property. In cross-examination, she confirmed that she is medically fit for work.
28. The final witness was Mr Thomas Forbes, who confirmed that he had known the Respondent for about four years, meeting him mainly in the pub, but that he had been to the Property regularly. He referred to its lack of repair, despite the rent being put up.
29. In his closing statement, the Applicant told the Tribunal that he is selling for good reasons. He has no other option, as he and his wife cannot handle things any longer.
30. Ms Smith asked the Tribunal to find that the application was not competent and should be dismissed, as the Notice to Leave attached to the application was not the one sent to the Respondent and the one that was served contained an error in the date before which no application would be made to the Tribunal. This was a matter of the construction of primary legislation and could not be overlooked by the Tribunal. The Respondent had demonstrated that, despite his efforts, he had been unable to secure alternative accommodation in the private sector. He would have to give up his two cats, as the current housing situation meant that it was likely that he would be rehoused in a hotel/hostel for some time. His health and that of Ms Murray has been impacted by this process. His grandsons visit occasionally, and it is the only time he sees them. Ms Smith stated that the Applicant had not provided evidence on his financial situation but was relying on it, and the Tribunal would be unable to make a reasonable decision due to lack of evidence on this matter. The Applicant had also not investigated the alternative solution of selling the Property with a sitting tenant. In all the circumstances, it would not be reasonable for the Tribunal to issue an Eviction Order.
31. Ms Smith indicated that, if the Tribunal were to make an Order, the Respondent would wish its enforcement to be delayed by a period of perhaps three months. The Applicant stated that this would have a material effect on him, and he would not agree to it. He also asked the Tribunal to consider the decision of the Supreme Court in *Akerman-Livingstone v Aster Communities Limited* [2015] UKSC15, but the Tribunal agreed with Ms Smith's contention that it was

inapplicable, as the present application was not based on a defence of unlawful discrimination.

Reasons for Decision

32. The Tribunal considered first the questions raised on behalf of the Respondent regarding the Notice to Leave. Section 52 of the Act states that “*An application for an eviction order must be accompanied by a copy of a notice to leave which has been given to the tenant.*”
33. The Tribunal noted that a copy of a Notice to Leave based on Ground 1 of Schedule 3 to the Act accompanied the application. It was dated 4 November 2024 and advised that an application to the Tribunal for an Eviction Order would not be made before 28 January 2025. The application itself, however, included Grounds 11 and 12 in addition to Ground 1. Further, the proof of posting of the Notice stated that it was posted on 2 November 2024, two days before its date. When the Tribunal queried this, the Applicant purported to amend the Notice to Leave, by altering its date to 2 November 2024. It was clearly not competent to change the Notice, and the application proceeded on the basis of the version attached to the application form. The Tribunal was not prepared to hold that the Notice to Leave was rendered incompetent by being posted two days earlier than its apparent date.
34. The Respondent’s representative had also pointed out that the Notice to Leave stated that an application to the Tribunal would not be made before 28 January 2025, but, allowing 48 hours for postage, the notice period ended on 29 January 2025, so the earliest date of application would have been the following day, 30 January 2025. The Notice to Leave was, therefore, she contended, invalid and the case should be dismissed. The Tribunal was not prepared to accept this argument. In *Halcrow v Davies and Hunter* (2025UT68), Sheriff S G Collins held that the failure of a notice to specify, in accordance with Section 62(1)(b) of the Act, the day on which a landlord expects to become entitled to make an application for an eviction order, is not an error which materially affects the effect of the document for the purposes of Section 73 of the Act. The view of the Sheriff in Paragraph 21 of his Decision was that, if accepting that stating the wrong date such as to give the tenant a day or two *more* notice than stipulated by the statute would not necessarily invalidate a Notice to Leave, there is no reason in principle why a day or two *less* notice than stipulated must necessarily do so. At Paragraph 23 of his Decision, the Sheriff stated that a Notice to Leave which contains an error is on the face of it valid unless that error materially affects the effect of the Notice by reference to Section 73 of the Act and that it is a matter of facts and circumstances whether such an error will “materially affect this effect”. At paragraph 19, he comments that the working out of the correct date to be stated in the Notice to Leave presents an exercise that would challenge a legally qualified person let alone a lay person. The view of the Tribunal was that, in the present case, the miscalculation by such a short period of the earliest date on which an application for an Eviction Order could be made did not materially affect the effect of the Notice.

35. 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 applies.
36. Ground 1 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the landlord intends to sell the let property and that the Tribunal may find that Ground 1 applies if the landlord is entitled to sell and intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of those facts. Ground 1 goes on to state that evidence tending to show that the landlord has that intention includes (for example) a letter of engagement from a solicitor or estate agent concerning the sale, or a recently prepared Home Report
37. The Tribunal was satisfied from the evidence given by the Applicant and the Agency Agreement with Slater Hogg & Howison, Estate agents, dated 5 November 2024, that the requirements of Ground 1 had been met and the only question for the Tribunal was whether it would be reasonable to issue an Eviction Order.
38. The Tribunal noted that the Applicant is 80 years old and is in poor health, as detailed in the letter of 14 February 2025 that he provided from the Rheumatology Clinic at New Victoria Hospital. He stated that he is now entirely dependent on his wife to manage his rental portfolio and that, even with this help, they can no longer cope and that they have started to sell their rented properties. It was not reasonable to expect a landlord to sell property with a sitting tenant, as that would inevitably result in a sale price significantly lower than would be achieved in a sale with vacant possession. The Tribunal was satisfied that the Applicant no longer sees himself as fit to fulfil the role of a landlord.
39. The Tribunal recognised that the Respondent also has health issues, but he is in a position where he can take steps to secure assistance to be rehoused. He gave evidence that he has been trying to secure alternative accommodation, so far unsuccessfully. The view of the Tribunal was that his position in that regard would be improved if he had an Eviction Order, as the local authority would have a legal duty to rehouse him.
40. The Tribunal could not take into account the position of Ms Murray. She is not a tenant and, whilst the Applicant is aware that she stays at the Property from time to time, he does not recognise her right to live there permanently. The Tribunal noted that the Respondent and Ms Murray were seeking to be rehoused together in a two-bedroom property.
41. The Tribunal sympathised with the Respondent's position regarding visits by his grandchildren but did not regard that as a reason for refusing an Eviction

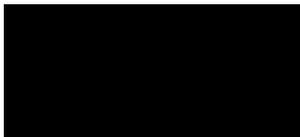
Order, as their visits are infrequent and short. They are not dependants of the Respondent.

42. Having considered all the evidence before it, the Tribunal decided on balance that it would be reasonable to issue an Eviction Order. The Tribunal recognised, however, that the Respondent had asked for additional time to find alternative accommodation and the Tribunal did not consider that a short extension would have a material effect on the Applicant, so determined that the Eviction Order should not be capable of enforcement for a period of two months from the date of its Decision.

43. 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.



Legal Member/Chair

16 February 2026
Date