



**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 Act”)**

**Chamber Ref: FTS/HPC/EV/24/5813**

**Re: Property at Flat 1/2, 480 Caledonia Road, Glasgow, G5 0LG (“the Property”)**

**Parties:**

**Ms Mandeep Lota, 5891 Avenue De Chateaubriand, Montreal, Quebec, H2S 2N3, Canada (“the Applicant”)**

**Ms Silvana Khan, Flat 1/2, 480 Calendon Road, Glasgow, G5 0LG (“the Respondent”)**

**Tribunal Members:**

**Ewan Miller (Legal Member) and Elizabeth Dickson (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the Property should be granted in favour of the Applicant against the Respondent**

**Background**

The Applicant was the owner of the Property, which she had leased to the Applicant. She had sought to bring the tenancy to an end as she wished to let her sister reside in the Property instead. The Respondent had been unable to source alternative suitable accommodation and so had remained in the Property past the expiry of a Notice to Leave that had been served in April 2024. As a result, the Applicant had applied to the Tribunal seeking an order for possession and to have the Respondent removed from the Property.

The Tribunal had before it the following primary information:-

1. Copy of a private rented tenancy agreement between the Applicant and the Respondent dated 1 December 2023;

2. Notice to Leave dated 18 March 2024 on the grounds the Applicant wished to reside in the Property;
3. Notice to Leave dated 10 April 2024 on the grounds a family member of the Applicant wished to reside in the Property;
4. Application to the Tribunal;
5. S11 Homelessness Notice;
6. Affidavit from the Applicant confirming her wish to let the Property to her sister;
7. Written submissions from Castlemilk Law Centre on behalf of the Respondent received October 2025

### **Case Management Discussion (“CMD”)**

The Tribunal, comprising Mr E K Miller, Chair/Legal Member and Mrs E Dickson, Ordinary Member, held a CMD on 23 October 2025 at 2pm by teleconference. The Applicant was on the call and represented herself. The Respondent was on the call and was represented by Ms Maureen Smith of Castlemilk Law Centre

### **Findings in Fact**

The Tribunal found the following facts to be established:-

1. The Applicant was the owner of the Property
2. The Respondent had been in the Property under a lease in her own name since 2021 (having previously been in occupation before 2021 under a lease in the name of her now estranged partner). The most recent tenancy had been granted to her alone on 1 December 2023
3. The Applicant had served a valid Notice to Leave on the Respondent on 19 April 2024
4. A s11 Homelessness Notice had been provided

### **Reasons for the Decision**

There was little factual dispute between the parties on this matter. It was not disputed that there was a tenancy agreement in place. There was no suggestion of any breaches of the tenancy agreement or other issues between the parties. It was simply the case that the Applicant wanted the Property back to let her sister reside in it and the Respondent could not find alternative accommodation and so had not removed.

In terms of the relevant legislation the Tribunal is obliged to consider whether it is reasonable in the circumstances to grant the order for possession. The Tribunal is

required to balance all of the evidence which has been presented to it and weigh the various factors before it.

Both parties submissions revolved around whether it was, in the circumstances, reasonable to grant the order for possession.

The Applicant submitted that she had bought the Property herself and lived in it for a period. She had then emigrated to Canada around 2008, where she remained. Her sister was an architect in Glasgow. She wished to let her sister move in to the Property and intended to let her sister live in the Property at a discounted rate, her sister finding private rented accommodation hard to find for herself within any reasonable budget. The Property was located near her sister's work and was convenient for her. She wanted to try and assist her sister, as families often do. Whilst she was sympathetic to the Respondent's position.

On the Respondent's side, the Tribunal had before it a detailed and helpful submission from Ms Smith of Castlemilk Law Centre. She set out a number of reasons why she felt it would be reasonable for the Tribunal to exercise its discretion in this instance. The Respondent and her son had ties to the area – her son attended a local school that she did not wish him to have to move from, the local mosque was nearby and her son attended a local physiotherapist. They did not have a car and could not afford one so to have to move would be difficult.

The Respondent had been looking for alternative accommodation and had applied to Gorbals Housing Association and Glasgow City Council. Whilst she had 100 out of 120 points on a housing assessment they could not offer accommodation at present. It would only be if she was evicted that she would be provided accommodation and that may be temporary at first.

The Respondent's agent made some comments on an erroneous Notice to Leave that had been issued previously and some other minor technicalities around the eviction process. The Tribunal was satisfied that the first Notice to Leave was not acted upon as it had been noted the wrong ground had been selected, hence a second notice being sent. The Tribunal viewed this as an administrative error and not a relevant factor in assessing reasonableness.

The Tribunal fully understood the position of the Respondent and why she wished to remain settled in a property she and her son had been in for some time. Similarly, the Tribunal understood the desire of the Applicant to assist her sister, given she had the capacity and ability to do so. Neither party was trying to be difficult or lacking understanding of the others position. This made the decision all the more difficult for the Tribunal.

Ultimately, however, the owner of a property should be able to make decisions as to how they wish to utilise a property within the confines of the various grounds set out in the Act for gaining possession of the Property back. The Act recognises a specific ground that owners of property may wish to let their family reside in property they own. The Tribunal balanced this right against the desire of the Respondent not to suffer disruption. However, the inability of the Respondent to find alternative accommodation was likely to persist for a long time given the national housing situation. If it had been

the case that the Respondent was likely to find alternative suitable accommodation within a relatively short period of time, the Tribunal would have been swayed that it was reasonable to grant an order for possession but for it only to become effective after a period of say 6 months. That would balance the competing interests of the parties. However, the reality of the housing situation in Glasgow at the current time is that a party will only get housing association or council accommodation if they are subject to an eviction order. There was nothing to suggest that the situation of the Respondent would change for the foreseeable future – she would remain unable to get alternative accommodation unless an eviction order was granted.

Accordingly, if reasonableness fell in favour of the Respondent it would likely mean a prolonged extension and significant detriment to the Applicant's sister. On that basis and in the absence of any likely change to the Respondent's position the Tribunal felt the decision fell in favour of the Applicant. Giving a temporary extension to the Respondent would simply be delaying the inevitable and a longer extension was not reasonable to the Applicant

### Decision

The Tribunal determined to grant an order for possession of the Property in favour of the Applicant against the Respondent

### **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.**

Ewan Miller

02 April 2026

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Legal Member/Chair

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Date

