

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section under Section 51 Private Housing Tenancies (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/1255

Re: Property at 6 Sourlie Terrace, Girdle Toll, Irvine, Ayrshire, KA11 1AN (“the Property”)

Parties:

Mrs Shaima Nawar, 2 Goldcraig Court, Girdle Toll, Irvine, Ayrshire, KA11 1RD (“the Applicant”)

Miss Jennifer Gillan, 6 Sourlie Terrace, Girdle Toll, Irvine, Ayrshire, KA11 1AN (“the Respondent”)

Tribunal Members:

Elaine Paton (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to dismiss the application for want of insistence, and that upon the agreement of the parties.

Background

1. The Applicant applied to the Tribunal for an eviction order in terms of Section 51 and ground 11 of Schedule 3 of the 2016 Act. Submitted with the application was a tenancy agreement, Notice to Leave, Section 11 notice and detail of particular conditions of tenancy which the Applicant alleged had been breached. A copy of the application was served on the Respondent and both parties were notified that a case management discussion (“CMD”) would take place on 26 February 2026.
2. The CMD took place on 26 February 2026. The Applicant and her husband Mr Najim were present but Mr Nimmo of Raeside Chisholm Solicitors Limited represented the Applicant. The Respondent was present with her mother, but she was represented by Ms Gibson of CHAP advice agency.

The Tribunal noted matters agreed between the parties and those matters remaining in dispute between them. After much discussion in relation to the various agreed and disputed matters, and there being a separate ongoing repairing standards case between the parties which had been lodged by the Respondent against her landlord (under Chamber reference: RP/25/2644), the parties' respective representatives reached agreement on a way forward. The arrangement between the parties was that the Applicant would make a new application to the First-tier Tribunal for recovery of possession on the basis that the Applicant's family member intends to move into the Property, which application the Respondent stated she was not opposed to, but in order to preserve the parties' respective positions, a joint motion was made to the Tribunal to continue matters for a period of some four months for that arrangement to have been progressed. The Tribunal continued the CMD with a date fixed for four months from 26 February 2026 and a Note of the CMD was issued.

3. On 02 June 2026, parties' representatives were notified the continued CMD would take place on 29 June 2026 at 1400 hours. No update was provided to the Tribunal in advance of the continued CMD.

Continued Case Management Discussion

4. The continued CMD took place on 29 June 2026. The Applicant's husband Mr Najim was present and stated the Applicant was not present on the call. Mr Nimmo of Raeside Chisholm Solicitors Limited was present and represented the Applicant. The Respondent was present, but she was represented by Ms Gibson of CHAP advice agency. The Tribunal summarised the circumstances as outlined in the Note of the CMD held on 26 February 2026 and invited Mr Nimmo to provide an update regarding the arrangement that had been agreed between the parties at that time.
5. Mr Nimmo stated that a fresh application for eviction had been lodged with the First-tier Tribunal Housing and Property Chamber ("HPC") (believed to be on the basis of Ground 4) under Chamber reference: FTS/HPC/EV/26/2644 and that application had now been accepted with a CMD date awaited. Ms Gibson on behalf of the Respondent stated that the Respondent remained unopposed to that fresh eviction application given that it the Applicant/family member intended to move into the property.
6. The tribunal invited Ms Gibson to provide an update regarding the separate repairing standards case (Chamber reference: RP/25/0955). Ms Gibson stated that the tribunal in that case had attended at the Property for an inspection on 13 April 2026 but had not gained entry; despite her client wishing to drop that case the tribunal intended to proceed and had issued a Direction with mention made about Gas Safety and Electrical Safety certificates requiring to be produced with a new inspection date awaited. In response to the Tribunal, Ms Gibson stated she had not indicated in writing to the HPC that her client wished to withdraw the relative application nor that parties had reached a consensus going forward. Further, replying to the

Tribunal, Ms Gibson stated that the local authority was aware of the repairing standards issues that had been raised in the relative application.

7. The Tribunal asked Mr Nimmo if there was insistence on the present application on the basis of Ground 11 proceeding. Mr Nimmo stated that it was sensible for there to be only one eviction application before the Tribunal therefore the Applicant would be content for the current application to be dismissed. Ms Gibson for the Respondent was agreeable to that position.
8. The Tribunal adjourned very briefly to consider if other matters required to be considered. Mr Najim left the call shortly before the adjournment and did not return to the call again. The CMD re-convened with the Applicant's representative Mr Nimmo, the Respondent, and the Respondent's representative Ms Gibson all present.

Decision

9. The Tribunal determined that the application should be dismissed for want of insistence, and noted that outcome reflected the parties agreed position.

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.

Elaine Paton

Elaine Paton, Legal Member

29 June 2026