

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 18 of the Housing (Scotland)
Act 1988**

Chamber Ref: FTS/HPC/EV/25/3057

Re: Property at 51/3 Lorne Street, 1F2, Edinburgh, EH6 8QJ (“the Property”)

Parties:

Mr MD Faizul Baksh, 48 Grigor Avenue, Edinburgh, EH4 2PG (“the Applicant”)

**Mr Gareth Cook, Ms Lisa May Montague, 51/3 Lorne Street, 1F2, Edinburgh,
EH6 8QJ (“the Respondent”)**

Tribunal Members:

Andrew Upton (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the eviction order should be refused.

Findings in Fact

1. The Applicant is the landlord, and the Respondents the tenants, of the Property under and in terms of an Assured Tenancy Agreement which commenced in June 2016.
2. The contractual assured tenancy agreement has been terminated. The current tenancy is a statutory assured tenancy.
3. The Applicant is an inexperienced landlord. The Property is the only property that he has let out. He has failed over time to meet his obligations as a landlord due to a combination of his own ignorance of the obligations imposed on him by law and his own lack of understanding.

4. The Respondents have raised multiple proceedings against the Applicant for breaches of the statutory duties imposed upon him as a landlord, including in respect of the landlord's repairing standard and tenancy deposits.
5. The Applicant purchased the Property in 2003. He initially lived in the Property with his family.
6. No substantive works have been undertaken in the Property since before the Applicant's acquisition of it.
7. The Property is in generally poor condition but is tenantable.
8. The Applicant intends to carry out refurbishment works to the Property. In particular, he intends to undertake a full bathroom and kitchen replacement, full re-plastering throughout the Property, and electrical works.
9. The Applicant intends to sell the Property following completion of the refurbishment works.
10. The Applicant does not want to be a private landlord anymore.
11. The Applicant is suffering from stress and anxiety due to his being a private landlord.
12. The Applicant suffers from inflammatory bowel disease. His condition is exacerbated by the stress and anxiety being a private landlord is causing him.
13. The Respondents are autistic and suffer from ADHD.
14. The Respondents' conditions mean that they require familiarity in their surroundings for their wellbeing.
15. The Respondents have a local support network comprising their friends upon whom they rely for support.
16. The works proposed by the Applicant can reasonably be carried out without the Respondents giving up possession of the Property.

Findings in Fact and Law

1. The requirements of Ground 6 of Schedule 5 to the Housing (Scotland) Act 1988 are not met.

Statement of Reasons

1. This Application called for a Hearing in person on 10 July 2026. The Applicant and First Named Respondent were both present. The Applicant was supported by his son (whilst giving evidence) and his daughter (after

completing his evidence). The First Named Respondent was supported by his support worker, Ms Podlass. He was also representing the interests of the Second Named Respondent, who had been unable to arrange childcare.

2. In this Application the Applicant seeks an eviction order. He claims that he intends to undertake substantial works in the Property and that the work cannot be carried out without the tenant giving up possession of the house. He therefore seeks an eviction order under Ground 6 of Schedule 5 to the Housing (Scotland) Act 1988.
3. In response, the Respondents assert that the work proposed can reasonably be carried out without the Respondents giving up possession of the Property. The Respondents also separately assert that it is not reasonable to grant an eviction order, in any event.

The Evidence

4. At the previous Case Management Discussion on 6 January 2026 the Tribunal directed the Parties to lodge written statements to stand as evidence in chief for all witnesses that they intended to lead. The Respondents did so. The Applicants did not. That notwithstanding, the Tribunal determined that the Hearing ought to proceed with the Applicant permitted to lead evidence from his proposed witnesses (himself and his daughter). The Tribunal was mindful of the potential prejudice that the Respondents faced in being unable to prepare for the evidence to the extent that the Applicants had been able to and determined to address any specific concerns as and when they arose.
5. The Applicant led evidence from himself and his daughter, Fariyah Baksh. The Respondents led evidence from the First Named Respondent and founded upon written statements from each of the Second Named Respondent, Mr Ewan Anderson, Mr Garo Tashdjian and Mr Paul Smith. Absent legal representation, the Tribunal sought to assist the Parties with the examination of witnesses.

Faizul Baksh (the Applicant)

6. The Applicant is 55 years old. He works as a private hire taxi driver. He gave his evidence with the assistance of a translator. He purchased the Property in 2003. He initially lived in the Property. Since June 2016 he has let the Property to the Respondents.
7. The Applicant is an inexperienced landlord. The Property is the only property that he has let out. He accepts that he has failed over time to meet his obligations as a landlord due to a combination of his own ignorance of the obligations imposed on him by law and his own lack of understanding. He spoke of the stress and anxiety that being a private landlord has caused him. He also spoke of previous issues with the tenants relating to the landlord repairing standard and a tenancy deposit, both of which he took advice on from Citizens Advice Bureau.

8. The Applicant spoke of no work having been done to the Property since its acquisition in 2003. He spoke of the tenants complaining that the Property is in need of repair and he concedes that it is. The Applicant's view is that the condition of the Property is not good. He intends to renovate the Property for people to live in. In particular, he intends to undertake a full bathroom and kitchen replacement, full re-plastering throughout the Property, and electrical works. In respect of the electrical works, there is an intention to replace the shower, certain light fittings, certain mains sockets and the main board. He did not know whether the Property would require rewiring as well. He had not confirmed that with his electrician.
9. The Applicant advised that, when the works were initially proposed in 2023, he anticipated that his daughter would move into the Property. That is no longer the case following his daughter's graduation from University and subsequent employment. The Applicant now intends to renovate and sell the Property. He no longer wishes to be a private landlord. He finds the obligations incumbent upon him too stressful. The Applicant has obtained bank lending to complete the works. He is paying interest on the lending. He has also paid half of the architect's fees. He has a genuine intention to complete the works. If he is unable to sell the Property then he has concerns for his physical and mental health.
10. The Applicant spoke of advice from his contractors that the works would be dusty and take significant time. It was not safe for the Respondents or their young family to remain in the Property whilst works were taking place. He wants to minimise the risk of harm.
11. The Applicant confirmed that no discussions regarding temporary displacement of the Respondents had taken place. He spoke briefly of offers having been made to the Respondents but those related to cash incentives for the Respondents to remove voluntarily from the Property.

Fariyah Baksh

12. Miss Baksh is 25 years old. She is a pharmacist and has been qualified for 10 months.
13. Miss Baksh spoke of having previously considered living in the Property after completion of the works proposed by her father but confirmed that circumstances had evolved. She is now in full-time employment, is in a stable romantic relationship, and has means to consider alternative options. As such, she is not going to live in the Property.
14. Miss Baksh spoke about the risk to the Respondents and their young family posed by dust and noise that would occur during the completion of works. She referred to the Respondents' medical conditions, and specifically autism, ADHD and PTSD and the potential effect on those, though she rightly

conceded that she did not have any understanding of how those conditions presented in the Respondents in terms of symptoms.

15. For the most part, Miss Baksh's evidence focused on her father and the effect that being a private landlord was having on him. She spoke of his inflammatory bowel disease and how the severity of his symptoms has increased over time as the stress of dealing with the Property has escalated. She spoke of his having lost 10 kilograms in weight in the last two years. He is having sleepless nights and takes sleeping tablets. She expressed real and genuine concern for his physical and mental wellbeing.
16. Miss Baksh also spoke of her father's tendency to misunderstand English. English is not his first language and he struggles to understand spoken explanations. He is reliant on his family to translate.

Gareth Cook (the First Named Respondent)

17. The First Named Respondent is 40 years old. He is self-employed in fashion and e-commerce.
18. In his statement and his evidence, the First Named Respondent spoke of a tumultuous relationship with the Applicant. He referred to various repairing standards enforcement cases and a tenancy deposit scheme action. He spoke of attempts to unlawfully evict the Respondents in the past. Ultimately, the First Named Respondent's view was that the Applicant did not intend to carry out the works and was fabricating a reason to evict the Respondents. He believes it to be a retaliation for refusing to agree to a rent increase and then refusing to leave the Property.
19. The First Named Respondent has lived in the Property for 10 years. He has a local support network of friends that live nearby. He is autistic. For him, that manifests as a need for familiarity. The need for familiarity was a repeating theme in his evidence. He returned to that point frequently.

Lisa Montague (the Second Named Respondent)

20. The Second Named Respondent produced a witness statement. She did not appear for cross-examination. Her evidence was generally consistent with that of the First Named Respondent.

Ewan Anderson

21. A signed witness statement was produced for Mr Anderson. He was not present to be cross-examined. He is an architect registered with the Architects Registration Board. He is a member of the Royal Institute of British Architects and the Royal Incorporation of Architects in Scotland. He has practised as an architect since 1993.

22. In his statement, Mr Anderson speaks of having inspected the Property and considered the nature of the works proposed by the Applicant. He notes that “refurbishment and associated internal alterations are improvement works rather than significantly disruptive works or demolition, reconstruction or substantial works”. He expresses the view that the works proposed by the Applicant would “improve the appearance of the property” but are not “essential for the inhabitation of the dwelling by the tenant”. He concludes that he does not “consider such works to be of a nature, scope or duration that would make it essential that the tenant vacated the property provided they were undertaken with due care and consideration for the occupants”.

Garro Tashdjian

23. A signed witness statement was produced for Mr Tashdjian. He was not present to be cross-examined. He is a joiner with over 40 years’ experience in the building trade.
24. Mr Tashdjian expresses the view that the works proposed by the Applicant are “refurbishment and renewal works and are not substantial or significant disruptive works”. He sets out what, in his view, the works would involve. He concludes that the works “are not works that cannot reasonably be carried out with the tenants remaining in occupation”.

Paul Stewart

25. A signed witness statement was produced for Mr Stewart. He was not present to be cross-examined. He is a director and installer with Boscolo Bathrooms Ltd. His company specialises in domestic bathroom, kitchen and internal refurbishment works.
26. Mr Stewart sets out how in his view the proposed works could be programmed. He does not consider them to be substantially disruptive. He speaks of his own experience of carrying out similar works whilst people continue to live in the house.

Assessment

27. The Tribunal found all of the witnesses who appeared to give evidence to be credible and reliable. The evidence given by the witnesses did not contradict the evidence of others. Where disagreement arose it related to their own subjective opinions on the views of others rather than disputed facts. Accordingly, insofar as the evidence led related to matters of fact, the Tribunal accepted that evidence in full.
28. Notwithstanding that they did not appear for cross-examination, the Tribunal found the written statements of Messrs. Anderson, Tashdjian and Stewart to be credible and reliable. All of the statements set out the relevant experience

of those witnesses with projects of a similar nature to that proposed by the Applicant and gave a clear, rational opinion based on that experience. The Applicant did not produce statements from relevant independent contractors to contradict the opinions of Messrs. Anderson, Tashdjian or Stewart. It follows that the Tribunal accepted their evidence in full.

Submissions for the Applicant

29. The Applicant submitted that Ground 2 for eviction was met. He intended to carry out the works. Those works could not reasonably be undertaken whilst the Respondents remain in possession.
30. The Applicant submitted that it is reasonable in all of the circumstances to grant the eviction order. He no longer wishes to be a private landlord. It is having a significant impact on his physical and mental health. The Respondents have been aware of his intention to undertake the works and his requirement for possession since 2023. They have had ample time to find alternative accommodation. Notwithstanding their medical conditions, it would be unreasonable to force him to continue to be a private landlord.

Submissions for the Respondent

31. The First Named Respondent submitted that Ground 6 for eviction was not met. The Applicant did not truly intend to carry out the works. The Applicant simply wanted to evict the Respondents in retaliation for their having made repairing standards and deposit scheme claims, refused a rent increase and ignored an attempted unlawful eviction.
32. Separately, the First Named Respondent submitted that it is unreasonable to grant the eviction order. The Respondents would suffer significant detriment if evicted. They would lose their familiarity with their home, which is a central pillar of coping with their medical conditions. They would be unable to find affordable accommodation near to their support network.

Discussion

33. Ground 6 for eviction is in the following terms:-

“The landlord who is seeking possession or, where the immediate landlord is a registered housing association within the meaning of the Housing Associations Act 1985, a superior landlord intends to demolish or reconstruct the whole or a substantial part of the house or to carry out substantial works on the house or any part thereof or any building of which it forms part and the following conditions are fulfilled (and in those conditions the landlord who is intending to carry out the demolition, reconstruction or substantial works is referred to as “the relevant landlord”)—

- (a) either—
 - (i) the relevant landlord (or, in the case of joint relevant landlords, any one of them) acquired his interest in the house before the creation of the tenancy; or
 - (ii) none of the following persons acquired his interest in the house for value—
 - (A) the relevant landlord (or, in the case of joint relevant landlords, any one of them);
 - (B) the immediate landlord (or, in the case of joint immediate landlords, any one of them), where he acquired his interest after the creation of the tenancy;
 - (C) any person from whom the relevant landlord (or any one of joint relevant landlords) derives title and who acquired his interest in the house after the creation of the tenancy; and
- (b) the relevant landlord cannot reasonably carry out the intended work without the tenant giving up possession of the house because—
 - (i) the work can otherwise be carried out only if the tenant accepts a variation in the terms of the tenancy and the tenant refuses to do so;
 - (ii) the work can otherwise be carried out only if the tenant accepts an assured tenancy of part of the house and the tenant refuses to do so; or
 - (iii) the work can otherwise be carried out only if the tenant accepts either a variation in the terms of the tenancy or an assured tenancy of part of the house or both, and the tenant refuses to do so; or
 - (iv) the work cannot otherwise be carried out even if the tenant accepts a variation in the terms of the tenancy or an assured tenancy of only part of the house or both.

- 34. The requirements which require to be met are therefore (i) that the landlord intends to carry out substantial work, and (ii) that the work cannot reasonably be carried out unless the tenants give up possession.
- 35. In respect of the first requirement, the Tribunal is satisfied that the Applicant intends to carry out the work. The Tribunal accepted his evidence that he has already incurred significant cost with a view to completing the work. The Tribunal accepted his evidence that he now intends to sell the Property. It is logical that he would wish to undertake modernisation works for the purposes of improving the sale price it is likely to attract. It follows that the first requirement of Ground 6 is met.
- 36. However, the Tribunal has accepted in full the evidence of Messrs. Anderson, Tashdjian and Stewart. That being the case, the Tribunal determined that the Applicant can reasonably carry out the intended work without the tenant giving up possession of the Property. It follows that the requirements of Ground 6 are not met. The Tribunal refused to grant an eviction order. The decision was unanimous.
- 37. The Tribunal notes, for completeness, that had it been satisfied that the requirements of Ground 6 were met then it would have found that it was reasonable to grant the eviction order. It is plain that the Applicant does not

wish to be a landlord anymore. It would not be reasonable to tie him to that role in circumstances where he does not wish to perform it and, by his own admission, he has not been very good at it. Further, the Tribunal considered that the detrimental effect being a landlord was having on his physical and mental health was a compelling factor. That was not to detract from the impact that eviction would have had on the Respondents, which the Tribunal accepts would have been significant. However, the Respondents are likely to be able to access support for any transition to new accommodation and the Property is in generally poor but tenable condition. In all of the circumstances, the Tribunal would have determined that it was reasonable to grant the eviction order had it required to.

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.

A Upton

29th July 2026

Legal Member/Chair

Date