



**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/25/3575

Re: Property at 34 McLean Drive, Bellshill, ML4 2ST (“the Property”)

Parties:

Mrs Shameem Hussain, 192 Scotia Street, Motherwell, ML1 3LW (“the Applicant”)

Ms Danielle Gray Andrew and Mr Charles McDermott, both residing at 34 McLean Drive, Bellshill, ML4 2ST (“the Respondents”)

Tribunal Members:

James Bauld (Legal Member) and Gerard Darroch (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 But that enforcement of the order should be delayed until 31 January 2027

Background

1. By application dated 20 August 2025 the applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 10 October 2025 the application was accepted by the tribunal and referred for determination by the tribunal.

3. A Case Management Discussion (CMD) took place on 27 March 2026, and the matter was remitted to an evidential hearing.
4. A hearing was set to take place on 19 August 2026 at 10.00 a.m. by teleconference call and appropriate intimation of that hearing was given to both parties

The hearing

5. The hearing took place on 19 August 2026 via telephone case conference call.
6. The applicant took part in the telephone case conference call. She was accompanied by her son, Yahya Hussain. The respondents were both present and were represented by Mr. David Nwagbara, Lay Representative, Hamilton Citizens Advice Bureau, 67 Almada Street, Hamilton ML3 0HQ.
7. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
8. The tribunal noted that written representations had been lodged by both parties in advance of the hearing although some documents had only been sent to the tribunal on the morning of the hearing.
9. Within the representations lodged on behalf of the respondents was a suggestion from their representative that the ground for eviction, namely that the landlord's son intended to live in the property was not accepted as being established
10. The tribunal indicated to the respondents' representative that the only matter that required to be determined at the hearing was whether it was reasonable to grant the eviction order. The tribunal indicated that at the CMD, the respondents had effectively conceded that they accepted that the applicant's son intended to move into the property. Within the written representations lodged on behalf of the applicant was an affidavit signed by the applicant's son confirming that intention. The tribunal accordingly confirmed the position stepped out in the note issued after the CMD that the eviction ground had been treated by the tribunal as established and that the only matter to be determined at the hearing was whether it was reasonable to grant the order.
11. The tribunal indicated to parties that if it subsequently transpired that the tribunal had been misled by the applicant, and that their son did not subsequently occupy the property if an eviction order was granted, then it may be open to the respondents to seek to apply to the tribunal for a wrongful termination order in terms of the relevant provisions set out in the 2016 Act.

12. The hearing then continued and the tribunal asked various questions of the parties regarding the application.
13. It was noted that the respondents' position was that they wished to remain in the property. Although Ms. Andrew has certain medical issues, she indicated that she is in receipt of appropriate medication. Removing from the property would require her to potentially change her GP surgery and may affect her ongoing appointments and treatments at a local hospital.
14. The respondents confirmed that they have been in touch with the local council with regard to potential assistance in obtaining alternative accommodation if an eviction order is granted. They have been advised that they will be given no assistance by the council unless and until an eviction order is granted.
15. It was noted that the respondents had lodged evidence indicating that the property has a number of ongoing repairs issues including dampness condensation and mould. A letter had been produced from the environmental health department of the local council indicating that the property currently did not meet the repairing standard as set out in the Housing (Scotland) Act 2006 nor did it meet the tolerable standard set out in the Housing (Scotland) Act 1987.
16. The respondents confirmed that they had no particular family connections to the Bellshill area. They confirmed they had no dependent children.
17. The property is a one bedroom apartment within a converted bungalow which contains 3 similar apartments
18. The applicant indicated that she was happy for her son to speak on her behalf and the tribunal asked various questions of Mr Hussain. He again confirmed that it is his intention to move into the property if it was available for occupation.
19. Mr Hussain is 22 years of age. He stated that he currently lives in Motherwell with his parents. He is employed in a restaurant in Coatbridge where he works part time approximately 18 to 20 hours each week. He earns about £1000 per month.

20. He is significantly involved in the local mosque in Bellshill where he attends every day not only as part of his religious observance but to assist as a volunteer. A letter was produced from one of the trustees of the mosque confirming Mr Hussain's attendance and his involvement with various activities within the mosque and the associate community. It is clear from the letter that Mr. Hussain's contributions to the mosque is highly valued and very commendable.
21. He indicated that he travels from his home to his place of employment and then to the mosque on a number of times each day. He does not own a car and is dependent either on his parents to provide transport or public transport.
22. Mr Husain confirmed that he has graduated from Strathclyde University with a degree in accountancy and is currently working towards achieving the chartered accountant qualification. He hopes to obtain employment within this profession at some point. He confirmed that he wished to move into the property. He wishes to become independent of his parents and to begin to live his own life. He hopes to marry in the future.
23. it was accepted on behalf of the applicant that she purchased this property in May 2025 from an auction website. She obtained no professional advice prior to concluding the purchase. She was aware that the property had sitting tenants but claimed to have been advised by the auction company that the letting agent had advised that the tenants were looking to move from the property.
24. The respondents indicated that they had never indicated to the letting agency that they intended to move nor had they ever spoken to the auction company about their intentions.
25. The tribunal then indicated to parties that there were three options open to the tribunal.
26. Firstly, the tribunal could determine that it was reasonable to grant the order. if so, then in accordance with its normal procedures the order would be enforceable at the end of a period of 30 days. Secondly, the tribunal could determine that it was not reasonable to grant the order and refuse to grant it. The third option open to the tribunal would be to grant the order, but to delay the enforcement of the order for a period of time which might enable the respondents to secure alternative accommodation either from the local council or from a local housing association. The respondents had

confirmed that they had lodged applications with the council and with a local housing association.

27. The tribunal asked parties that if the third option was to be taken by the tribunal whether they had any views on the appropriate period of delay. The respondents and their representatives indicated that an appropriate period of delay would be in the region of three to four months to enable appropriate steps to be taken to secure alternative accommodation via the homeless application system with the local council.
28. The applicant's position was that they would prefer a shorter period but were happy to leave that in the hands of the tribunal.
29. The Hearing was then then concluded and the tribunal thanked parties and their representatives for their attendance and their contributions. The tribunal Members then considered the application and the evidence presented at the hearing

Findings in fact

30. The Applicant is the registered owner of the property.
31. The Respondents and a company called Oryx Jo Limited as respectively the tenant and landlord entered into a tenancy of the property which commenced on 13 April 2021.
32. The tenancy was a private residential tenancy in terms of the Act.
33. The agreed monthly rental was £390
34. The applicant purchased the property and became the owner of the property on 9 May 2025 and on that date became the landlord in place of Oryx Jo limited.
35. The applicant purchased the property with the intention of it becoming a home for her son
36. The applicant sought no professional advice prior to the purchase of the property

37. On 22 May 2025, the applicant served upon the tenants a notice to leave as required by the Act. Service was effected by postal delivery to the respondents. The Notice became effective on 18 August 2025. The notice informed the tenants that the landlord wished to seek recovery of possession using the provisions of the Act.
38. The applicant's son intends to live in the property if the respondents are evicted.
39. The property is currently affected by a number of disrepair issues including dampness and mould and has been deemed by the environmental health department of the local authority to be in a state where it does not currently meet the repairing standard set out in the Housing (Scotland) Act 2006 nor does it meet the tolerable standard set out in the Housing Scotland act 1987.
40. The respondent, Ms. Andrew suffers from asthma and requires to take medication in respect of that condition. She is also receiving ongoing treatment in respect of blood clotting issues and attends appointments with the haematology department at the local hospital in respect of that issue
41. A ground for eviction as set out in the 2016 Act namely that a member of landlord's family intends to live in the let property is accordingly established

Discussion and Decision

42. 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.
43. The ground for eviction under which this application was made is the ground contained in paragraph 5 of schedule 3 of the 2016 Act. The ground is that the that the landlord's Family member intends to live in the property. However, an eviction order on this ground can only be granted if the Tribunal is also satisfied that it is reasonable to issue an eviction order on account of that fact

44. 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.
45. The tribunal accepted the evidence presented by and on behalf of the landlord that her son intends to live in the property.
46. The ground for eviction was accordingly established.
47. The Tribunal also 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”.**
48. 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.
49. The tribunal accepts that the landlord's son intends to live in the property and wishes to do so. 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. However, the tribunal accepts that the Property was purchased by the applicant with the intention that it would become a home for her son. The tribunal accepts that the applicant's son

intends to live in the property. He has a significant and ongoing connection and commitment to the Bellshill area, which is demonstrated by his involvement with the local mosque in that area.

50. The tenants have indicated that they would prefer to remain in the accommodation but have acknowledged that they have no particular deep connection to the Bellshill area. They appear to be content to move from the property if they are able to obtain alternative accommodation from the local council or a local housing association. If the property is affected by dampness, mould and condensation as narrated by the respondents then it may actually be better to move from the property into more suitable accommodation which is not affected by disrepair.
51. The respondents have taken appropriate steps to seek assistance from the local council and have been told that they will be fully assisted in obtaining alternative accommodation only when an eviction order is granted and they face actual homelessness. The granting of the order may therefore ultimately (and almost counter intuitively) benefit the respondents in their attempts to obtain alternative suitable accommodation.
52. The tribunal has therefore determined that the balance in this application lies with granting the order on the basis of the evidence presented in the application and at the hearing. The tribunal finds that it is reasonable to grant the order
53. The tribunal has also considered whether it should delay the date at which this order can be enforced.
54. The tribunal accepts that the landlord's son intends to live in the property and wishes to do so as quickly as possible. However, the tribunal notes that the purchase of this property was undertaken by the applicant without seeking any appropriate professional advice. Had such advice been taken at the time the tribunal is certain that the applicant would have been advised that the removal of the existing tenants would not be straightforward and would take a considerable period of time.

55. The tribunal notes that the tenants have lived in the property for over 5 years and have no immediately available alternative accommodation. They do not appear to be in a position to obtain alternative accommodation within the private rented sector, certainly not at the rent they currently pay. It would appear that they will be assisted by the local council to obtain alternative accommodation within the public (or social rented) sector if the order is granted. The tribunal, using its own experience and knowledge, is aware that such assistance will not be immediate and will require a period of time. The tribunal is required to balance the competing interests of the parties. The respondents may face homelessness if the order is enforced within a very short period of time.

56. Accordingly, the tribunal takes the view that the enforcement of the order should be delayed for a period of time to allow the respondents sufficient time to attempt to secure alternative accommodation. The tribunal will delay the enforcement of the order until 31 January 2027 to allow the respondents additional time to obtain alternative accommodation.

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

19-08-2026

Legal Member/Chair

Date