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 51 of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/25/5469

Re: Property at Flat 3/2, 1080 Cathcart Road, Glasgow, G42 9XW ("the Property")

Parties:

Mr William McDevitt, Flat 2/1, 1 Queen Square, Strathbungo, Glasgow, G41 2BG ("the Applicant")

Mr Gareth Owen Lamb, Flat 3/2, 1080 Cathcart Road, Glasgow, G42 9XW ("the Respondent")

Tribunal Members:

Gabrielle Miller (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the order for recovery and possession should be granted in favour of the Applicant. The enforcement of the Order is superseded until 1st February 2027.

Background

1. An application was received by the Housing and Property Chamber dated 19th December 2025. The application was submitted under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations"). The application was based on Ground 4 of the Private Housing (Tenancies) (Scotland) Act 2016.

2. The Respondent's solicitor lodged answers on 10th June 2026. The answers raised various points in support of the contention that the Respondent should not be evicted because it was not reasonable to do so.

3. A Case Management Discussion ("CMD") was held on 19th June 2026 by teleconference. The Applicant was present and represented himself. The Respondent was present and was represented by Ms Maureen Smith.

4. The CMD was adjourned to a new date. This was to allow the case which had been conjoined with this case to proceed together, as both cases concerned the same property, albeit different tenants. The Tribunal noted to Ms Smith that parts of her answers were not relevant. This was to be addressed by way of further submissions prior to the next CMD. At that point, the Respondent was still maintaining that Ground 4 could not be established as the Applicant did not intend to move into the Property.

5. On 19th October 2026, the Applicant lodged a signed affidavit confirming his intention to move into the Property.

6. On 26th October 2026, the Respondent's solicitor lodged amended answers. This removed the opposition to Ground 4 and stated that the Respondent did not wish to be evicted and contended that it was not reasonable to do so.

7. On 27th October 2026, the Applicant lodged an email exchange between himself and the Respondent together with tenant guidance notes relating to the Notice to Leave.

8. A new CMD date was set for 4th November 2026 at 2.00 pm by teleconference.

9. The case was conjoined with case FTS/HPC/EV/26/1962.

The Case Management Discussion

10. A CMD was held on 4th November 2026 at 2.00 pm by teleconference. The Applicant was present and represented himself. The Respondent was present and was represented by Ms Maureen Smith, Principal Solicitor, Castlemilk Law Centre. The parties were present and represented as noted above.

11. The Tribunal explained the purpose of the CMD and the powers available to the Tribunal to determine matters.

12. The Applicant confirmed that he wished an order for eviction to be made.

13. Ms Smith submitted that her primary position was that an order for eviction should not be granted. She said that the Respondent was established in the area and did not want to move from the area. Ms Smith confirmed that the Respondent is a 25-year-old man who lives on his own. The Tribunal asked if he wanted to live in the Property or whether he wanted to remain in the area. She confirmed that he wanted to remain in the area. The Tribunal asked if he was able to find an alternative property given that the ground of eviction was no longer opposed. Ms Smith said that he could but would need further time. The Tribunal discussed this point with the Applicant and Ms Smith. Both parties were content that an order be granted but that enforcement be superseded until 1st February 2027. Ms Smith said that this was her alternative position.

14. The order was granted but its effect was superseded until 1st February 2027. This date was agreeable to both parties.

Findings and Reasons for Decision

15. The Applicant is the registered owner of the Property.

16. A Private Residential Tenancy Agreement commenced on 20th February 2024 although it was not in the standard form.

17. On 10th June 2025, the Applicant served upon the Respondent a Notice to Leave as required by the Act. Service was effected by hand delivery service and the Notice was received by the Respondent on 10th June 2025.

18. The Notice informed the Respondent that the Applicant wished to seek recovery of possession under the provisions of the Act.

19. The Notice was correctly drafted and gave the appropriate period of notice as required by law.

20. The Notice set out one of the grounds contained within Schedule 3 of the Act, namely Ground 4 (that the Applicant intends to live in the Property).

21. The Applicant now wishes to live in the Property. Ground 4 has therefore been established.

22. This is a no-fault ground of eviction.

23. The Respondent does not oppose the granting of an order provided that its enforcement is superseded.

24. The Respondent has no known vulnerabilities or disabilities.

Reasons for the Decision

26. The order for possession sought by the Applicant was based on a ground specified in the Act and properly narrated in the Notice to Leave served upon the Respondent. The Tribunal was satisfied that the Notice had been served in accordance with the provisions of the Act and that the Applicant was entitled to seek recovery of possession on that ground.

27. The Tribunal accepted the evidence presented on behalf of the Applicant with regard to Ground 4. That evidence was supported by an affidavit.

28. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020, an eviction order on Ground 4 can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on that ground.

29. The Tribunal has a duty, in such cases, to consider the whole circumstances in which the application is made. It follows that anything that might dispose the Tribunal either 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 of 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".**

31. In this case, the Tribunal finds that it is reasonable to grant the order.

32. The Tribunal decided to exercise the power within Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

33. The issue of reasonableness, whilst fully considered, was viewed in the context of the application not being opposed. Accordingly, this weighed in favour of granting the order. The Tribunal was satisfied that there were no issues of reasonableness preventing an order for eviction from being granted.

Decision

34. The Tribunal found that Ground 4 had been established and granted an order in favour of the Applicant.

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.

Gabrielle Miller

4th November 2026

Legal Member/Chair **Date**