



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 58 of the Private (Housing) (Tenancies) (Scotland) Act 2016 (“The Act”)

Chamber Ref: FTS/HPC/PR/25/0396

Re: Property at 41 Kirktonholme Gardens, East Kilbride, G74 1BT (“the Property”)

Parties:

Mrs Molly MacFie, Mr Paul MacFie, 29 Kelso Drive, East Kilbride, G74 4BZ (“the Applicant”)

Mr Raymond Baxter, 25 Aspen Way, Hamilton, ML3 7NG (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member), Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) refuses the Application.

Background

[1] The Applicant seeks an Order under Section 58 of the Act for a Wrongful Termination Order under Section 59 of the Act. The Applicant alleges that they were misled by the Respondent into ending a tenancy and leaving the Property. The Respondent had served a Notice to Leave on the Applicant on the basis of ground 4 of schedule 3 of the Act- *“the landlord intends to move into the let property”*. The Applicant claims that the Respondent failed to follow through on this. The Application is defended by the Respondent. Both sides have submitted representations setting out their respective positions.

The Hearing

[2] The Application called for a Hearing at 10 am on 6 February 2026 at Glasgow Tribunals Centre. The Applicants were personally present. The Respondent was personally present together with his witness, Kirsty Strannigan. The Tribunal began by ensuring that everyone understood the format of the Hearing and that everyone was familiar with the documentation which had been submitted to the Tribunal.

[3] Thereafter the Tribunal began hearing evidence. After each party gave evidence, the other had the right to cross-examine. Following on from the conclusion of evidence, each party had the opportunity to make closing submissions specifically addressing any source of law or suggesting any approach which parties said the Tribunal ought to take to the case.

[4] The Tribunal comments on the evidence heard as follows.

The Applicant -Ms Molly MacFie

[5] The Applicants allege that they were misled by the Respondent into ending a tenancy and leaving the Property on 30 September 2024. The Respondent had served a Notice to Leave dated 16 August 2024 on the Applicants on the basis that the Respondent wished to move into the Property in terms of ground 4 of schedule 3 of the Act. The Applicants claim that the Respondent failed to follow through on this and then re-let the Property for a higher rent. The Applicants moved out of the Property on 30 August 2024. They moved out earlier than strictly required as they found another Property. In January 2025, the Applicants then say that the Property was being re-let out again. The Applicants paid £850.00 per month as rent. The Property was then re-let for £895.00.

[6] The Applicants invited the Tribunal to be sceptical of the Respondent's explanations. They pointed out that the Respondent had initially said that he and his partner had reconciled in early September 2023 which undermined his case that they only reconciled after the Applicants had already moved out the Property. The Applicants pointed out that the date appeared to then change from September to October in subsequent representations, albeit the Respondent had explained that the change in dates was because he had written September 2023 in error. The Applicants also pointed out that there was no documentary evidence produced that documented the Respondent's apparent decision to move into the Property. Mr MacFie did not wish to give evidence and was content that the Tribunal simply rely on the evidence given by Ms Molly MacFie

The Respondent- Mr Raymond Baxter

[7] The Respondent's explanation was not complicated to follow. He had been living with his partner at 25 Aspen Way in Hamilton in a household composed of the two adults, his partner's child and his own child who lived there for certain times as part of a shared care agreement. The Respondent and his partner had moved in together in October 2023. There had been serious tensions between the two children which created acute stresses in the household. The Respondent's son has additional support needs. Eventually the situation became such that the Respondent and his partner decided to separate. The Respondent explained that he had nowhere else to go and so decided that he would have to move into the Property. He duly served the requisite notice to leave.

[8] The Respondent explained that he had been "*really happy with the tenants in the Property*". In August 2023, the Respondent decided that he was going to move into the Property. After the Applicants had moved out, the Respondent explained that the situation with his partner was very fragile and difficult conversations were being had to see if their relationship could be saved. Eventually it was decided that the Respondent would "*stay put*" and they would try and work things out.

[9] The Respondent explained that he had no financial incentive to mislead the Applicants and that the whole situation lost him a lot of money in lost rent. The subsequent increase in rent at the Property was modest and in no way resulted in any financial gain for the Respondent. The Respondent explained that he genuinely intended to move into the Property.

[10] The Tribunal discussed the Respondent's domestic situation in great detail with him and was grateful for the evidence given which was clearly extremely personal in nature. The Respondent's partner also gave evidence which corroborated the Respondent's own evidence regarding their relationship issues.

[11] The Tribunal found the Respondent and his partner's evidence to be entirely credible and reliable. There was no legitimate reason to doubt their accounts and the Tribunal was not minded to disbelieve their account of the relevant dates notwithstanding that they said that a mistake had been made in their original statement about the date they said they called off the separation. There was no real basis that might have suggested any reason to disbelieve them.

[12] The Tribunal was however somewhat taken aback to hear that the Respondent had subsequently relet the Property before effectively moving back into the Property again as of 1 January 2026. The Respondent and his partner were still a couple but were now living separately. The Respondent accepted that he had served another notice to leave on the new tenant who had taken occupation of the Property after the Applicants so that he could move back in.

[13] Having considered the documentation and having heard evidence, the Tribunal makes the following findings in fact.

Findings in fact

1. *The Applicants let the Property from the Respondent by virtue of a Private Residential Tenancy.*
2. *The Respondent served a notice to leave on the Applicants dated 16 August 2024 on the basis that the Respondent wished to move into the Property in terms of ground 4 of schedule 3 of the Act.*
3. *The Respondent was experiencing relationship difficulties and had decided to move into the Property following the ending of his relationship and cohabitation with this partner.*
4. *The Applicants moved out of the Property on 30 August 2024. They moved out earlier than strictly required as they found another Property. By January 2025, the Property was being relet out again. The Applicants paid £850.00 per month as rent. The Property was then re-let for £895.00 per month.*
5. *The Respondent did not move into the Property. He reconciled with his partner and they decided to continue cohabiting.*
6. *The Respondent did not intend to mislead or actually mislead the Applicants into leaving the Property.*

Decision

[14] Section 58 of the Act requires the Tribunal to decide whether the Respondent 'misled' the Applicants into ceasing to occupy the Property. Having heard evidence and considered the relevant documentation and made the above findings in fact, the Tribunal cannot come to that conclusion.

[15] The Tribunal therefore concludes that there is no legitimate basis for concluding that the Applicant was misled into moving out and ceasing to occupy the Property. Accordingly, the Tribunal refuses the Application.

[16] The Tribunal considers that the Respondent's domestic situation was and remains clearly difficult. It is part of adult life that such issues can arise. The Tribunal is of the view that there is no reason not to accept the Respondent's account of his issues.

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.

Andrew McLaughlin

Legal Member/Chair

23 March 2026

Date