



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/25/0877

Re: Property at 5 Glenraith Path, Glasgow, G33 5QY (“the Property”)

Parties:

Mrs Linda Craig, 45 Fourth Avenue, Millerston, Glasgow, G33 6JZ (“the Applicant”)

Miss Rebecca McIlwraith, 5 Glenraith Path, Glasgow, G33 5QY (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Eileen Shand (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) refused the application and determined that the Applicant is not entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”). The Applicant sought an order to evict the Respondent from the Property.
2. A case management discussion (“CMD”) took place on 23 October 2025. The Tribunal issued a note summarising that discussion along with a notice of direction.
3. The Tribunal received written representations from the Respondent on 10 March, 11 March (2 emails) and 13 March 2026.
4. On 26 March 2026, the Tribunal received an email from the Applicant’s representative, attaching written submissions and a specialist survey report.

The hearing – 31 March 2026

5. The hearing proceeded by conference call. Both parties participated in the hearing. The Applicant was represented by Mr. Lewis Murphy and the Respondent represented herself. The Tribunal explained the purpose of the hearing. The Tribunal observed that both parties had failed to comply with the notice of direction issued on 23 October 2025. The Applicant's representative explained that an updated rent statement has not been produced because there are no rent arrears and rent is being paid as it falls due. Neither party lodged any documentation regarding notification of repairs. The Applicant and Respondent gave evidence. The evidence given by the parties is summarised below. The summary is not a verbatim account of what was said at the hearing but rather an outline of the matters relevant to the Tribunal's consideration of the application. At the conclusion of the evidence, the Tribunal adjourned the hearing to enable the members to consider the evidence given. The parties were advised that a written decision with a statement of reasons would be issued to them.

Summary of evidence

The Applicant – Mrs Linda Craig

5. She has been a landlord for almost 20 years and has never had any issue with the repairing standard of her properties. She prides herself on being a compliant landlord. She had a previous tenant who had to move out of a property for a week so that a repair could be effected. She paid for the tenant to stay in a local hotel for a week and paid for taxis for him to commute to work.
6. The Respondent has been consistently in arrears of rent for almost 5 years. In November 2022, she sent a message to the Respondent because no rent had been paid. The Respondent told her that she was the only one working and would pay the rent the following Friday. Rent arrears continued to accrue. At the time the notice to leave was served, the Respondent had been in arrears of rent for more than 3 consecutive months. She is not aware of the reason rent arrears accrued. The Respondent often ignored her calls. The Respondent told her that she would not pay until everything was sorted, but she had already resolved all repairs which had been reported. She is not aware of the Respondent ringfencing rent which was not paid. When rent was not being paid, the Respondent told her that her partner sometimes did not have work. The rent increased from £600 per month to £750 per month which is still below the market rate. She has had to deal with rising mortgage rates, compliance with legislation and undertaking repairs, all while the Respondent allowed rent arrears to accrue. In January 2025 when the notice to leave was served, ground 12 was established because the Respondent was in arrears of rent for more than 3 consecutive months. When the CMD took place in October 2025, that was the first time she heard of rent being withheld because of repairing issues. She thinks the Respondent only paid the rent arrears in or around October 2025 because these proceedings had been raised. In relation to the rent statement

which has been lodged, the column headed "value" shows the payments made by the Respondent. The Respondent told her that she did not need a payment plan but that she could afford to pay £25 per week towards the arrears. The arrears of rent were cleared in or around October 2025 and since then, rent has been paid as it falls due.

7. In relation to repairs, there was a leak in the bathroom in 2021 which caused water damage to a wardrobe downstairs. A plumber was instructed and attended to re-seal the bath. That appeared to fix the problem. There was a further report from the Respondent about a leak and a plumber was instructed. The bath and tiles were removed and a new bath and wetwall was installed. Whilst this work was done, the bath and toilet were still usable, and it was only the shower which was not working. The Respondent told her that she could go to her mother's house to use the bathroom whilst the work was ongoing. There is no window in the bathroom and some black mould spots were noted in the bathroom. The Respondent used a bleach cleaner to remove the mould. There were also some black mould spots noted in the main bedroom. She contacted the energy company and arranged for a new heating system to be installed and a new meter. She took advice and was told that the Property is overcrowded because it is a two bedroomed property and six people are living there.
8. She attended at the Property with Heat Save Scotland to inspect the Property. She noted that in the main bedroom the bed is against the wall and there were 2 adults and a child sleeping in that room. The new heating system was not being used and the trickle vents were not used, although the Respondent was opening the windows. In 2023, she employed Rowallan Plumbing and Heating Ltd to attend at the Property. They installed a positive input ventilation fan to draw out excess moisture. She also arranged for the attendance of a roofer to investigate moisture in the attic space. It was found that the Property would benefit from vents in the roof and 9 vents were fitted.
9. In or around the beginning of 2024, the Respondent contacted her to report that there was mould on the outside wall of the downstairs bedroom. She bought two dehumidifiers and attended at the Property. The Respondent would not allow access, so she left with the dehumidifiers.
10. There is no structural dampness in the building. The Property is too small for 2 adults and 4 children. If the Respondent had come to her with that family unit, she would not have rented the Property to her because it is unsuitable for that family unit.

Miss Rebecca McIlwraith

11. She has lived in the Property since May 2018. Problems first arose in 2019. The bathroom floor had a split level and there was a flood which caused a problem at the bottom end of the bathroom and that caused dampness in a cupboard downstairs. The Applicant arranged to have that fixed. In 2022 there was a period of time when there was no working toilet in the Property. She

refused to pay rent until that was fixed. She gave birth to a child on 19 April 2022. For a week or so after that, the bathroom was not usable. The Applicant offered to pay for her to move to a hotel but she told the Applicant that she would go to her parents' home instead.

12. The Applicant arranged for someone to attend the Property in relation to the dampness. She acknowledges that the Property is overcrowded and she keeps the windows open constantly to ensure that the Property is adequately ventilated. There have been 3 new heating systems installed in the Property. She did not use the heating initially because heating was not necessary. The Applicant arranged for a fan to be fitted in her sons' bedroom but she cannot run the fan because it is too noisy.
13. Her daughter lives downstairs and her son stays with his father. She and her partner sleep on the sofa bed. There are no other suitable properties available for the family unit to move to.
14. The payment of rent arrears in October 2025 was not just because these proceedings were raised. She received an email from the Applicant and her representative in February 2025 advising that if she cleared the balance of rent arrears, the application to end the tenancy would be withdrawn. Her mother gave her money to help her clear the rent arrears. She now works as an auxiliary nurse for the NHS and her income has increased. Her position is now well established and she works mainly night shifts as a result of which her financial position is more stable. She is able to meet the ongoing rent without any problem. Looking at the rent statement lodged, she cannot assist to explain how the missed payments of rent tie in with the repairing issues. She withheld payment of rent for 2 months because of repairing issues.

Submissions

15. The Applicant's representative submitted that the ground for eviction was met when the notice to leave was served. The timescale in reaching a hearing has been unreasonable and the Applicant is entitled to recover possession of the Property.
16. The Respondent's family unit live in the Property and have no other accommodation to go to. Whilst it is accepted that there were rent arrears, the rent account has been brought up to date and rent is being paid as it falls due.

Findings in Fact

26. The Applicant is the heritable proprietor and landlord of the Property at 5 Glenraith Path, Glasgow, G33 5QY.
27. The Respondent is the tenant of the Property.
28. The parties entered into a private residential tenancy which commenced 15 May 2018.

29. The Applicant served a notice to leave on the Respondent by recorded delivery post on 22 January 2025, specifying that ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016 was relied upon.
30. At the time the notice to leave was served, the Respondent had been in arrears of rent for more than three consecutive months.
31. In or around October 2025, the Respondent paid all rent arrears due and brought the rent account up to date.
32. As at the date of this hearing (31 March 2026), no rent arrears were due by the Respondent to the Applicant.

Reason for Decision

33. The application proceeded on the basis of ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016. The Applicant served a notice to leave. The rent statement lodged by the Applicant was not easy to follow and even the Applicant had difficulty explaining what each of the columns represented. It was not possible to determine what the balance of rent arrears was at any given date. The Respondent did not take issue with the service of the notice, and she accepted that there were rent arrears. There was sufficient detail in the rent statement lodged which demonstrated that rent arrears appeared to exist for more than 3 consecutive months. However, the Tribunal had to consider whether the Respondent had lawfully withheld payment of rent because of a repairing issue. Neither party complied with the notice of direction issued on 23 October 2025. Neither party gave much specification about the notification of repairs or the timing or repairs after notification. There was no evidence before the Tribunal that the Respondent ringfenced any withheld rental payments in a separate bank account, nor was there any evidence that the Respondent notified the Applicant that rent was withheld because of repairing issues. Following questions from the Tribunal, the Respondent was unable to explain how the withheld payments of rent were connected to repairing issues. The Tribunal concluded that the Respondent had not lawfully withheld payment of rent. Consequently, the Tribunal concluded that ground 12 had been established.
34. The next matter for the Tribunal to determine was whether it would be reasonable for an eviction order to be granted. The Respondent accepted that rent arrears had accrued. She explained her current employment situation and that she had an increased income to allow her to meet the payments of rent as they fall due. The Respondent was very clear about her financial situation having improved and stabilised. The Respondent cleared the rent arrears in or around October 2025. Since then, rent has been paid in accordance with the tenancy agreement. The Respondent lives in the Property with her partner and children. They do not have alternative accommodation to go to. The Respondent gave evidence that the Applicant and her representative told her

that these proceedings would be withdrawn if the rent account was brought up to date. That evidence was not challenged.

35. Weighing the parties' respective positions, the Tribunal was not persuaded that it would be reasonable for an order for eviction to be granted. The application was therefore refused.

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.

N. Irvine

Legal Member/Chair

Date: 20th April 2026