



**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/22/2740**

**Re: Property at 470 Allison Street, Glasgow, G42 8TA (“the Property”)**

**Parties:**

**Mr Faheem Ahmad, 0/2, 360 Aikenhead Road, Glasgow, G42 0QG (“the Applicant”)**

**Mr Suhail Ahmad, Mrs Neelum Bilquees, 470 Allison Street, Glasgow, G42 8TA (“the Respondents”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Mike Scott (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.**

**Background**

1. The Applicant submitted an application under Rule 109 for an order to evict the Respondents from the property.
2. By decision dated 26 October 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. The Notice of Acceptance was intimated to the Applicant’s representative on 27 October 2022. The Tribunal intimated the application to the parties by letter of 28 November 2022 and advised them of the date, time and conference call details of today’s case management discussion (“CMD”). In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the

Tribunal has sufficient information and considers the procedure to have been fair. The Respondents were invited to make written representations by 19 December 2022.

4. On 19 January 2023, the Tribunal received written submissions on behalf of the Second Respondent, along with photographs said to show the condition of the property.
5. On 25 January 2023, the Tribunal received an email from the Second Respondent's representative, intimating her withdrawal from acting on behalf of the Second Respondent.

### **The Case Management Discussion**

6. The CMD took place by conference call. The Applicant joined the conference call and was represented by Mr Caldwell, solicitor. Both Respondents participated in the discussion. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/22/3921. Both Respondents were opposed to the application for an eviction order. That was notwithstanding the terms of the written submissions lodged on behalf of the Second Respondent which stated that the application was not to be opposed. The Second Respondent explained that she had been advised that she did not have grounds to challenge the claim for eviction.
7. The Respondents live in the property with the Second Respondent's 70 year old mother. The parties' daughter also resided in the property although she now lives elsewhere. The Respondents are unemployed and in receipt of universal credit. Both Respondents opposed the application for eviction on the basis that the property was in poor condition. The Second Respondent explained that the property was in poor condition when they moved there in February 2022. The Applicant told the Respondents that he would arrange for repairs to be carried out at the property but he failed to do so. The kitchen doors need to be replaced and the kitchen is full of grease because the extractor fan does not work. The Respondents withheld payment of rent from September 2022 to date because repairs were not carried out. In response to questions by the Tribunal, the Respondents advised that they are not holding the rent money in a separate account; they have received the housing element of their universal credit entitlement and they have spent that money on energy costs. When asked how they could afford to pay rent if the property was in good condition, the Respondents advised that they would pay what they can.
8. The Second Respondent contacted the local authority following receipt of the Notice to Leave. The local authority told her that no action would be taken to identify alternative accommodation for the Respondents unless and until the Tribunal grants an order for eviction.
9. The Applicant's representative has been in correspondence with different representatives of the Second Respondent. He was given to understand that the First Respondent no longer resided at the property. The last payment of

rent made by the Respondents was on 8 August 2022. The Applicant received correspondence dated 9 November 2022 from a representative of the Second Respondent, which raised issues of disrepair. It was reported that the radiators were operating at a reduced capacity, there was water ingress in the vestibule and the kitchen was in poor condition. The Applicant's representative responded and advised that a number of repairs were carried out on a number of different dates throughout 2022. In December 2022, the Applicant's representative received a letter from the Second Respondent's new representative calling upon the Applicant to effect certain repairs within 7 days, failing which rent would be withheld from 30 December 2022. The Applicant attended with tradesmen on 16 January 2023 and repairs were effected.

10. The Applicant's position is that he is living in overcrowded accommodation and for the reasons set out in the statement lodged, requires the property to live in. The Applicant's position is that the property met the repairing standard when the Respondents moved into the property and the condition of the property is such that it has never fallen below the repairing standard. In around December 2022, the Applicant made a request to have the housing element of the Respondents' universal credit claim paid directly to the Applicant. The request was refused because the Second Respondent cited repair issues. It was submitted that the Respondents have been disingenuous in withholding the rent because repairs have been effected when notified and the Respondents have spent the housing element of their universal credit claim on utility costs. It was submitted that it was reasonable for the Tribunal to grant the order for eviction.

### **Findings in Fact**

11. The parties entered into a private residential tenancy which commenced 1 February 2022.
12. The Notice to Leave was served on the Respondents by sheriff officer on 1 July 2022.
13. The Applicant intends to live in the property.

### **Reason for Decision**

14. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondents did not challenge the ground of eviction. The Respondents did not make any submissions about the reasonableness or otherwise of an order being granted. There was no evidence before the Tribunal to demonstrate that the condition of the property failed to meet the repairing standard. The Respondents have been withholding rent since September 2022. There was no evidence of the requests made by the Respondents to justify rent being withheld from that date. The written submissions lodged on behalf of the Second Respondent state that the Applicant was notified of repairs being required in November and December

2022. The Respondents conceded that they are not holding the rent money in a separate account and in fact have already spent the money on utility costs. Leaving aside any issues about repairs, the tenancy appears to be unsustainable by the Respondents. In all of the circumstances, the Tribunal found that it was reasonable to grant the order sought.

### **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

**Nicola Irvine  
Legal Member/Chair**

**26 January 2023  
Date**