



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 (“the Act”) Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/25/2988

Re: Property at 60 Main Street, Stirling, FK7 9AZ (“the Property”)

Parties:

Ms Beatrix Varga, Peter Pinter, 60 Buntine Crescent, Stirling, FK7 9JB (“the Applicant”)

Mr John Miller, 60 Main Street, Stirling, FK7 9AZ (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

Tribunal Members:

Karen Moore (Legal Member) and Frances Wood (Ordinary Member)

Decision in absence of Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) having determined that correct statutory procedure had not been carried out, dismissed the Application and did not grant an Order.

Background

1. By application received between 10 July 2025 and 27 August 2025 (“the Application”), the Applicants applied to the Tribunal on his behalf for an Order for eviction and possession of the Property based on Ground 12 of Schedule 3 to the 2016 Act, it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

2. The Application comprised the following:
 - i) copy tenancy agreement between the Parties with an entry date of 24 May 2024 and a monthly rent of £1,580.00 payable in advance on the 24th day of each month;
 - ii) copy Notice to Leave in terms of Ground 12 of Schedule 3 to the Act dated 26 May 2025 with proof of issue;
 - iii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Stirling Council being the relevant local authority;
 - iv) copy rent statement showing all rent transactions from 24 May 2024 to 24 July 2025 and
 - v) copy pre-action requirement sent to the Respondent.

3. As part of the Tribunal Chamber assessing of applications, the Applicants were advised that, at the date of the Notice to Leave, there did not appear to be evidence in support of Ground 12. A detailed explanation with reference to relevant case law, UT 59 Majid v Gaffney [2019] was provided to the Applicants who were invited to withdraw the Application. By letter dated 27 August 2025, the Applicants declined to withdraw the Application and advised the Tribunal Chamber that they wished to proceed.

4. Therefore, the Application was accepted by the Tribunal Chamber and a Case Management Discussion (“CMD”) was fixed for 3 March 2026 at 14.00 by telephone conference.

CMD

5. The CMD took place on 3 March 2026 at 14.00 by telephone. Both Applicants were present and neither was represented. The Respondent, Mr. Miller, was not present and was not represented. The Tribunal was satisfied that he had been served with the Application by Sheriff Officer on 16 January 2026 and so proceeded in his absence.
6. The Tribunal explained that it required to be satisfied that the correct statutory process had been carried out and explained that, on the information before it, it was not satisfied that there had been grounds for eviction at the date on which the Notice to Leave was issued. The Tribunal explained that Ground 12 is that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months, and, explained that there is a difference between rent in arrears and rent not paid or paid late.
7. With reference to the rent statement submitted by the Applicants, the Tribunal noted that the Notice to Leave is dated 26 May 2025, was posted on 27 May 2025 and was received on 28 May 2025. For Ground 12 to apply, there ought to have been rent arrears for the three months prior to 26 May 2025.
8. The Tribunal noted that the rent due on 24 February 2025 for the month to 23 March 2025 was paid on 27 February 2025. Therefore, there were no arrears for that month. No rent was paid on 24 March 2025 for the advance month from 24 March 2025 to 23 April 2025 and so the current rent was due at that time. No rent was paid on 24 April 2025 for the advance rent month 24 April 2025 to 23 May 2025 and so the current rent was due at that time, as was one-month arrears for the previous month. No rent was paid on 24 May 2025 for the advance month to 23 June 2025 and so that the current month's rent was due, together with two month's arrears of rent for 24 March 2025 to 23 May 2025. Therefore, when the Notice to Leave was issued, there were two months' rent arrears and the current month was due. Three months' consecutive arrears did not occur until 23 June 2025.

9. Therefore, as the Notice to Leave is not valid, the Application could not proceed and fell to be dismissed.
10. The Applicants, although aggrieved, accepted the position.
11. Accordingly, the Tribunal dismissed the Application without making an order.
12. This decision is unanimous.

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.

K Moore

Legal Member/Chair

3 March 2026

Date