



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 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/EV/25/3701

Re: Property at 13c Balfroon Road, Killearn, G63 9NN (“the Property”)

Parties:

Scotus Investments LTD, Mirren Court One, 119 Renfrew Road, Paisley, PA3 4EA (“the Applicant”)

Miss Lynsey Newton, 13c Balfroon Road, Killearn, G63 9NN (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Angus Anderson (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession of the property be granted.

Background

1. By application received on 29 August 2025, the Applicant applied to the Tribunal for an order for recovery of possession of the property in terms of Grounds 12 (rent arrears over three consecutive months) of Schedule 3 to the 2016 Act. Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, Notice to Leave/proof of service of same, the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003/proof of service of same, a rent statement, evidence regarding the ‘pre-action protocol’ and other correspondence between the parties.

2. Following initial procedure, on 15 September 2025, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. A Case Management Discussion (“CMD”) was fixed for 3 March 2026. The application and details of the CMD scheduled were served on the Respondent by Sheriff Officer on 16 January 2026. In terms of said notification, the Respondent was given an opportunity to lodge written representations. None were lodged prior to the CMD.
4. On 13 and 29 January 2026, the Applicant’s representative lodged updated information in respect of the rent arrears, together with an updated rent statement showing a balance of £2,779.95 owing at that stage.

Case Management Discussion

5. The CMD took place by telephone conference call on 3 March 2026, commencing at 10am. In attendance was Mr Mark Dinardo of Scotus Investments Ltd, the Applicant. The Tribunal delayed commencement of the CMD for 5 minutes to give the Respondent an opportunity to join late but she did not do so.
6. Following introductions and introductory remarks by the Legal Member, Mr Dinardo explained the background to the application. There has been little communication from the Respondent, even although he previously enjoyed a good relationship with the Respondent. He lives in Killearn where the Property is situated. He visited her at home when the rent account went into arrears and although she gave him some information explaining her position, she has not really communicated recently. He does not know the nature of her health issues, just that she was awaiting surgery and has now had that. She told him she had lost her job as a consequence of her health issues and there was a delay while she made application for benefits. He assumes she is now receiving benefits but has never been given confirmation of what she is receiving, if this is the final figure or if she has been granted Discretionary Housing Payment. The payments which were coming in do not meet the monthly rental amount, but the Respondent has not been forthcoming with information or entered into a satisfactory payment plan. The situation is too uncertain for the Applicant who has mortgage commitments to meet in respect of the Property. He does not know if the Respondent has made application to the local authority for social housing as she has not informed him and he has not heard anything directly from the local authority. He does not know her intentions in relation to the Property and is not certain that she is still actually living there. She was living with her elderly parents, who live nearby, when she was recuperating from her surgery. The respondent cooperated with a Gas Safety check being carried out and Mr Dinardo has also been in the building once during the past ten months to check meter readings and noted that there was a lot of mail waiting for her.

7. Mr Dinardo stated that he did not take the decision lightly to start eviction proceedings. The Respondent was otherwise an unproblematic tenant and if she had properly engaged with him regarding the arrears, it may not have come to this. However, he gave her five months to resolve matters after the rent payments stopped and this did not happen. He felt he had no option but to seek eviction, given the obligations he is under to the mortgage lender. Mr Dinardo mentioned that this was only the fifth time in 38 years that he has evicted anyone.
8. Mr Dinardo confirmed that the arrears balance has reduced since the most recent statement was lodged and now amounts to £1,779.93. The current monthly rental is £660 and separate payments were latterly being received of £460 and £40.01 per month, which he assumes were from benefits. He has not received a breakdown of benefits from either the Respondent or the benefits agency. However, he mentioned that on both 11 December 2025 and 11 February 2026, payments of £660 were received, which covered the monthly rent. Mr Dinardo wrote to the Respondent asking her to confirm if she was able to cover the full rental payments going forward but, again, has received no response. In the circumstances, he considers he has dealt with matter fairly and reasonably and requested that the Tribunal grant the eviction order today, given that the Respondent has not been in contact with the Tribunal or attended the CMD today.
9. The Tribunal Members adjourned to consider the application and, on re-convening, confirmed that the Tribunal was satisfied that the eviction application was in order and that it was reasonable for the order sought to be granted today. Mr Dinardo was thanked for his attendance and participation at the CMD.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 11 September 2020.
3. The rent due in respect of the tenancy was originally £560 per calendar month, but has been increased and is currently £660 per month.
4. There was a background of rent arrears dating back to around May 2025 with many monthly payments being missed altogether or only partial rent payments made.
5. The last payments towards rent amounted to £660 on or around 11 February 2026, plus payments amounting to just over £500, also during February 2026.
6. It is understood that the Respondent is now in receipt of state benefits but the position has not been clarified recently by the Respondent and not have the

benefits agency or the local authority been in direct communication with the Applicant in this regard.

7. Arrears currently amount to £1,779.93.
8. The Applicant has sought to engage with the Respondent concerning the rent arrears throughout and issued numerous communications to her, including in respect of the 'pre-action protocol'.
9. The Respondent initially engaged with the Applicant but has not engaged more recently, nor clarified her position to the Applicant.
10. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent by post on 17 July 2025.
11. The date specified in the Notice to Leave as the earliest date an eviction application could be lodged with the Tribunal was specified as 17 August 2025.
12. The Tribunal Application was submitted on 29 August 2025.
13. The Respondent has not vacated the Property, to the knowledge of the Applicant.
14. The Respondent has been called upon to make payment of the rental arrears or enter into a satisfactory payment arrangement but has failed to do so.
15. The Respondent has been in rent arrears for three or more consecutive months.
16. There is no indication that the arrears have arisen wholly or partly as a result of a failure or delay in the payment of relevant benefits.
17. The Respondent did not lodge any written representations with the Tribunal nor attend the CMD.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, the procedural background to the application, the further written representations lodged on behalf of the Applicant more recently, including an updated rent statement, and to the oral representations at the CMD by the Applicant's Mr Dinardo.
2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the correct period of notice had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the relevant provisions of the 2016 Act.

3. The Tribunal considered the ground of eviction relied upon in this application, namely Ground 12, and was satisfied that all requisite elements of that ground had been met. Ground 12 is as follows:-

“Rent arrears

12(1)It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

(2).

(3)The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—

(a)for three or more consecutive months the tenant has been in arrears of rent, and

(b)the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.

(4)In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider—

(a)whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and

(b)the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.

(5)For the purposes of this paragraph—

(a)references to a relevant benefit are to—

(i)a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),

(ii)a payment on account awarded under regulation 91 of those Regulations,

(iii)universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,

(iv)sums payable by virtue of section 73 of the Education (Scotland) Act 1980,

(b)references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.

(6)Regulations under sub-paragraph (4)(b) may make provision about—

(a)information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),

(b)steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,

(c)such other matters as the Scottish Ministers consider appropriate.”

The Tribunal was satisfied that, although the amount of rent arrears had now reduced, there were still substantial rent arrears owing, of £1,779.93 and that the rent had now been continuously in arrears for a lengthy period of time, exceeding three months. The Tribunal was satisfied from the Applicant's representations that the decision to raise eviction proceedings had not been taken lightly and that they had continued to seek to engage with the Respondent to ascertain whether the arrears situation may be resolved. However, the Tribunal noted the lack of more recent engagement from the

Respondent and the uncertainty for the Applicant as to future payments towards the ongoing rental commitments and the rent arrears. The Tribunal also noted that the Applicant had ongoing mortgage commitments in respect of the Property.

4. As to reasonableness, all the factors mentioned above satisfied the Tribunal that it was reasonable to grant an order in these circumstances, and to do so at this stage. There was no indication that the Respondent's failure to pay rent was due to any failure/delay in payment of state benefits and it was clear that the Applicant had followed the 'pre-action protocol', in terms of their ongoing correspondence with the Respondent and attempts to engage with her. Payments being made to the rent account continued to be erratic. The Respondent had not entered into the Tribunal process and the Tribunal therefore had no material before it either to contradict the Applicant's position nor to advance any reasonableness arguments on behalf of the Respondent. The Tribunal accordingly determined that an order for recovery of possession of the Property could properly be granted at the CMD as, in the circumstances, there was no need for adjournment to an Evidential Hearing.

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.Weir

Legal Member/Chair

3 March 2026

Date