



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/4073

Re: Property at 157 Main Street, Wishaw, ML2 7AU (“the Property”)

Parties:

MRS SUZANNE POLLOCK, 3 NETHERDALE CRESCENT, NETHERTON, WISHAW, ML2 0DN (“the Applicant”)

MS LYNNETTE MULDOON, 157 Main Street, Wishaw, ML2 7AU and MR BARRY BARRETT, 157 Main Street, Wishaw, ML2 7AU (“the Respondent”)

Tribunal Members:

Elaine Paton (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant.

Background

1. The Applicant seeks an eviction order in terms of Section 51 and Ground 12 of Schedule 3 of the 2016 Act. A tenancy agreement, Notice to leave, rent statement, section 11 notice and evidence of compliance with the rent arrears pre-action protocol were lodged with the application.
2. A copy of the application was served on the Respondent by Sheriff Officer on 13 April 2026. The parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 15 May 2026 at 10am and that they were required to participate.
3. Prior to the CMD, on 21 April 2026, the Applicant submitted evidence of their email exchanges with one of the Respondents (during the period 28 February 2026 to 21 April 2026) comprising statement by the Respondent that a payment

towards the rent account would be made imminently, no payment then being received, and the Applicant seeking update, stating the last date of payment received into the rent account and that the arrears balance had increased to £3,200 due to no payment(s) received subsequently. The Applicant submitted further evidence on 05 May 2026 of an exchange of emails dated 26 and 30 April 2026 between one of the tenants and the Applicant in relation to a payment being made imminently by the Respondent, the Applicant checking and stating no payment received, requesting an update from the Respondent and including a reminder that another rent was due on 10 May 2026. Said submissions were copied to the Respondent by the Housing and Property Chamber administration on 25 April 2026 and 07 May 2026 respectively.

4. The CMD took place on 15 May 2026. The Applicant was present. The Respondent did not participate. The application for a payment order under Chamber reference CV/26/0631 was also discussed.

Summary of Discussion at CMD

5. The Applicant told the Tribunal that the Respondent is still believed to be living at the property.
6. The Tribunal noted the Private Residential Tenancy agreement lodged with the application states the tenancy started on 10 November 2023, with a rent of £525. A spreadsheet rent statement document produced with the application demonstrated there were three consecutive months arrears of rent when a Notice to Leave was served upon the Respondent on 16 August 2025. Pre-action protocol email correspondence, including communications sent to both of the tenants via emails dated 27 May 2025 and 15 September 2025 were produced together with various WhatsApp messages between the parties and other emails sent to the Respondent regarding their arrears of rent. The Applicant stated they had made countless efforts to engage the Respondent including via Whatsapp messages and emails including the pre-action protocol correspondences sent to the Respondent providing the requisite information a landlord must send to their tenant including copy tenancy detail, level of arrears of rent, and details of agencies such as Shelter, Citizens Advice Bureau, Universal Credit, Benefits and local authority Housing services for the tenants to seek advice and assistance from. The Applicant told the Tribunal the last payment the Respondent had made to their rent account was 23 December 2025, evidenced by excerpt bank entries produced, and the balance of unpaid rent was currently £3,725 including the rent payment for May 2026 and £3,200 arrears of unpaid rent including the monthly rental sum that became due on 10 April 2026. The Applicant confirmed they wished the Tribunal to grant an eviction order.
7. The Applicant told the Tribunal they have not been receiving income from the Property and are required to pay insurance and other bills for it and they have been supporting that expenditure in absence of rent from the Respondent. The Applicant owns a portfolio of nine rental properties including the Property and one holiday let which portfolio provides them with income that they rely upon to

meet their own expenditures. The Applicant cannot continue to sustain the present position regarding the Property.

8. In relation to the Respondent's circumstances, and in response to the Tribunal, the Applicant stated the Respondent Mr Barrett is approximately 50 years old, Ms Muldoon is in her forties, both Respondents are believed to be in employment with Ms Muldoon stated to have had a change in job and known to drive a company car. Further, in response to the Tribunal, the Applicant stated they were unaware of the Respondents claiming any benefits and reiterated that they had been provided with details to contact Universal Credit and the local authority regarding housing benefit as well as other agencies regarding advice. The Applicant stated there were no children residing in the Property and they were unaware of either Respondent having any health issues.

Findings in Fact

9. The Applicant is the owner and landlord of the property.
10. The Respondent is the tenant of the property in terms of a private residential tenancy agreement which commenced on 10 November 2023.
11. The initial calendar monthly rental was £525. There have been no rent increases therefore the Respondent is due to pay ongoing rent of £525 per calendar month.
12. The Respondent has been in arrears of rent since 28 March 2025, with any payments made to the account generally received late or sporadically after months of non-payment. The last payment received by the Applicant to the Respondent's rent account was 23 December 2025.
13. The Respondent currently owes £3,725 in unpaid rent, including arrears of £3,200 incorporating unpaid rent that became due on 10 April 2026.
14. The Applicant made efforts to engage the Respondent and issued correspondences to the Respondent in compliance with the rent arrears pre-action protocol.
15. The Respondent has failed to engage meaningfully with the Applicant or offer any explanation for the arrears and failure to meet their ongoing rent payment obligation.
16. The Respondent resided in the property when the tenancy commenced and is believed still to be residing in the property to date.

Reasons for Decision

17. The application was submitted with a copy signed Private Residential Tenancy agreement. The Respondent has resided at the Property since 10 November

2023.

18. The application was also submitted with a Notice to Leave dated 16 August 2025, together with a copy email to the Respondent which establishes that the Notice was served on the Respondent on that date. The Notice states that an application to the Tribunal is to be made on ground 12 (rent arrears over three consecutive months).
19. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
20. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
21. Ground 12 of Schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states "(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. (3) The First-tier Tribunal may find that the ground named in 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." Sub-Paragraph (4) states, "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 Minister in regulations." Relevant benefits are defined in sub-paragraph (5) and include housing benefit and universal credit. The Pre Action-Requirements Regulations include the provision of clear information relating to the terms of the tenancy agreement, the level of the arrears, the tenant's rights in relation to eviction proceedings and how the tenant can access information and advice.
22. The Tribunal accepted the unchallenged evidence of the Applicant in the form of the documents submitted and the information provided at the CMD. The Tribunal is satisfied that the Respondent currently owes £3,725 in unpaid including £3,200 in arrears which became due by them on 10 April 2026 and that they have been in arrears of rent for three or more consecutive months, both at the date of service of the Notice to leave and the CMD. Ground 12 is therefore established.
23. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -

- (a) The Tribunal is satisfied that the Applicant has complied with the Rent Arrears Pre-Action Protocol. The Applicant provided copies of email correspondences issued to the Respondent in compliance with the protocol.
- (b) The Tribunal is also satisfied that there is no evidence to contradict the Applicant's understanding that the Respondent is not believed to be in receipt of benefits, thus that the arrears could be attributable to a delay or failure in the payment of a relevant benefit.
- (c) The Respondent did not participate in the CMD or notify the Tribunal if the application was opposed.
- (d) The arrears are significant and are increasing. No payments have been made since 23 December 2025.
- (e) The Respondent has failed to engage meaningfully with the Applicant in order to address the situation and has provided no explanation for the arrears.

The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act and that ground 12 has been established. For the reasons outlined in paragraph 23, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

The Tribunal determines that an eviction order should be granted against the Respondent.

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.

E.Paton

15 May 2026