

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 (1) and Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("The Act")

Chamber Ref: FTS/HPC/EV/25/3311 FTS/HPC/CV/25/3333

Re: Property at 44 Glen Arroch, East Kilbride, G74 2BP ("the Property")

Parties:

Mrs Caroline Scott, Mr Robert Scott, 1 Muirkirk Gardens, Strathaven, ML10 6FS ("the Applicants")

Mr John Muir, 44 Glen Arroch, East Kilbride, G74 2BP ("the Respondent")

Tribunal Members:

Andrew McLaughlin (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

[1] In respect of Application with reference, FTS/HPC/EV/25/3311, The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") granted the Application and made an Eviction Order. In respect of Application with reference FTS/HPC/CV/25/3333, the Tribunal granted the Application and made a Payment Order in the sum of £5,215.00.

Background

[2] The Applicants seek an Eviction Order under ground 12 of Schedule 3 of the Act. The Application is accompanied by a copy of the relevant tenancy agreement, the notice to leave with proof of service, the relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 and a rent statement. There is also evidence of compliance with

The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020. The Applicants also seeks a Payment Order in respect of the arrears of rent.

Previous Case Management Discussion

[3] This Application called for a Case Management Discussion (“CMD”) at 10 am on 2 March 2026. Both parties were personally present. They explained that they had entered into an agreed payment plan that, if adhered to, could lead to the Applicants withdrawing the Application.

[4] The Tribunal decided to continue the Application to a Hearing on the understanding that if the arrangement entered into is adhered to, then the Application would be withdrawn.

The Hearing

[5] The Application called for a Hearing by conference call at 10am on 6 July 2026. The parties were in attendance. Neither party had any preliminary matters to raise. The Applicants had, however, submitted written representations in advance of the Hearing confirming that whilst payments had been made in accordance with the agreed payment schedule for March and April, no further rent had been paid thereafter, and the rent arrears were now £5,215.00.

The Applicants’ position

[6] The Applicants’ position is that the Respondent had approached them with the proposal that he be allowed to stay in the Property until 30 September 2026 but that unless this was accepted, then he would depart from the agreed payment plan notwithstanding that the Respondent stated to the Applicants that he had the funds to pay the agreed overpayments of rent.

The Respondent’s position

[7] The Tribunal fully heard from the Respondent and discussed the issues. The Respondent accepted that rent arrears were now £5,215.00. The Respondent’s position was that he accepted that an Eviction Order should be granted but that the Tribunal should provide that it may not be enforced until 30 September 2026. The Respondent said clearly that if this was not granted then he would lodge an appeal to try and delay the process.

[8] The Respondent advised that he has shared care of his eight-year-old son, who has a room in the Property and regularly stays with him when not staying with the child’s mother in Ayr. The Respondent advised that his son attended school in Ayr and that, as

this was some distance from East Kilbride, he had decided to relocate to the Ayr area and no longer wished to remain in the Property. He had applied to one housing association in that area during the previous week but had not contacted the local authority to seek rehousing or housing assistance. The Respondent described how he had looked into renting other properties in the private sector but was concerned about the impact that an eviction for rent arrears would have on his ability to secure such accommodation. The arrears had arisen because of a temporary reduction in income.

[9] He accepted that he had not stuck to the payment plan which had been discussed at the previous CMD. He explained that he had a friend who was a lawyer who had told him to withhold the payments until the outcome of the Tribunal was known. The Tribunal discussed the nature of this advice with the Respondent. The Respondent confirmed that he had made a deliberate decision to depart from the payment plan based on that advice and not because he lacked the funds to pay either the ongoing contractual rent or the agreed payments towards the arrears.

[10] The Respondent explained that he had picked the date of 30 September because he thought it was reasonable that he be allowed three months to find alternative accommodation.

[11] Having heard from the parties and having considered the whole facts and circumstances of the case, the Tribunal made the following findings in fact.

Findings in Fact

- 1) *The Applicants let the Property to the Respondent under a Private Residential tenancy within the meaning of the Act;*
- 2) *The Respondent fell into rent arrears and the sum of £5,215.00 is now lawfully due as arrears of rent by the Respondent to the Applicants;*
- 3) *The Applicants have signposted the Respondent to sources of financial support;*
- 4) *The Applicants competently served a notice to leave under ground 12 of Schedule 3 of the Act. Ground 12 was established at the date of service of the notice to leave and remains established as at today's date;*
- 5) *The Applicants have complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003 and The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
- 6) *The Respondent has failed to adhere to an agreed payment plan.*

Reasons for Decision

[12] Having made the above findings in fact, the Tribunal considered that the ground set out in the notice to leave was established. The Tribunal also considered that it was reasonable to make an Eviction Order.

[13] The Tribunal considered that the Respondent's decision to cease paying both the contractual rent and the agreed payments towards arrears, despite having the means to do so, weighed against the exercise of any discretion in his favour. Even if he had received advice from a friend who was a lawyer, the Respondent's decision to act upon that advice gives the Tribunal little confidence that contractual rent would be paid were an extension to the tenancy end date to be allowed.

[14] The Respondent appeared to be attempting to force all concerned to allow him to stay in the Property until 30 September. The reference to appealing any decision to the contrary to delay matters made that somewhat clear. The Respondent accepted that an Eviction Order should be made and it was only a question of whether the Tribunal should exercise its discretion to delay the enforcement of any Eviction order. The Respondent decided soon after the CMD that he wished to relocate to the Ayr area. However, despite that intention, he had only applied to one housing association during the previous week and had not contacted the local authority to seek rehousing or housing assistance.

[15] The Tribunal therefore granted the Application and made an Eviction Order. The Tribunal saw no reason to exercise its discretion to delay the date by which any order might be enforced. The Tribunal did not consider that the effort to force the Tribunal's hand in that regard should be facilitated. But beyond that, the actual reason for seeking a delay was somewhat generic and lacking in actual detail about why any extra time would be reasonably required in this particular case. It seemed as if the date was picked for the personal convenience of the Respondent rather than for any other credible reason.

[16] The Tribunal also granted the payment order as sought as there was no legitimate defence to that Application.

Right of Appeal

[17] 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.

Andrew McLaughlin

Legal Member/Chair

6 July 2026

Date