



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

Chamber Ref: FTS/HPC/EV/25/3326

Re: Property at 11B Burnside Road, Rutherglen, Glasgow, G73 4RF (“the Property”)

Parties:

Mr Christopher Campbell, Tandlehill Cottage, Barrmill, Beith, KA15 1HH (“the Applicant”)

Miss Lauren Rooney, 11B Burnside Road, Rutherglen, Glasgow, G73 4RF (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mr A Lamont (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.

Background

1. This is a Rule 109 application whereby the Applicant is seeking an eviction order under ground 12. The Applicant representative lodged a copy of a private residential tenancy agreement between the parties in respect of the Property, which tenancy commenced on 28th July 2021 at a monthly rent of £750, a notice to leave with evidence of service, a section 11 notice with evidence of service, pre-action requirement correspondence, and a rent statement.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by Sheriff Officer on 25th February 2026.
3. By email dated 27th March 2026, the Applicant lodged an updated rent statement to 28th March 2026 showing arrears of £5950.
4. A Case Management Discussion (“CMD”) took place by telephone conference on 13th April 2026. The Applicant was in attendance and represented by Mr

Haswell, Solicitor. The Respondent was not in attendance. An eviction order was granted.

5. By email dated 14th May 2026, the Respondent stated she wished to appeal the decision. The Respondent included written representations and productions. Due to an administrative error, the Respondent's email was not seen or passed to the Tribunal.
6. The eviction order was issued to the Applicant on 27th May 2026, after the expiry of the 30-day appeal period.
7. On or around 5th June 2026, the Respondent contacted the Tribunal administration regarding her application for appeal.
8. By email dated 9th June 2026, parties were informed that the Tribunal was willing to consider the Respondent's application as an application for recall of the decision.
9. By email dated 12th June 2026, the Applicant representative lodged submissions opposing the application for recall.
10. By email dated 15th June 2026, the Respondent confirmed that she was not seeking permission to appeal the decision to the Upper Tribunal, and that she was seeking recall of the Tribunal's decision.
11. By decision dated 18th June 2026, the Tribunal granted the application for recall and continued matters to a hearing on reasonableness.
12. Parties were notified of the hearing set down for 14th September 2026 on 7th August 2026.
13. By email dated 14th August 2026, the Applicant representative lodged an amended rent statement showing arrears of £8200 to the end of May 2026.
14. By email dated 17th August 2026, the Applicant representative requested a postponement of the hearing. The Tribunal requested further information, and by email dated 4th September 2026, the Applicant representative confirmed the request for a postponement.
15. By email dated 9th September 2026, the Applicant contacted the Housing and Property Chamber and stated that he would appear at the hearing on his own behalf and no longer wished a postponement of the hearing.
16. By email dated 11th September 2026, the Respondent stated that she had cancelled annual leave upon being provided with the request by the Applicant representative for a postponement, and that she was unable to attend the hearing.

17. By email dated 11th September 2026, the Respondent was informed by the Chamber administration that the hearing had not been postponed and would take place as scheduled.
18. By email dated 14th September 2026, provided to the Tribunal Members and the Applicant shortly before the hearing, the Respondent stated that she was unable to attend the hearing. The Respondent stated that she had reasonably assumed that the hearing was postponed, and had cancelled her leave with her employer. The Respondent stated that she would clear the arrears in full over the next three months through a combination of financial support from the local authority, child maintenance arrears and employment income. The Respondent also proposed a monthly rent increase from £750 to £900. The Respondent stated that her circumstances are now moving in a more positive direction. The Respondent stated that evidence would be available of her employment, her application for council support, child maintenance arrears and any other financial evidence.

The Hearing

19. A hearing took place by telephone conference on 14th September 2026. The Applicant was in attendance. The Respondent was not in attendance.
20. The Tribunal considered the overriding objective. The Tribunal took into account the requirement to avoid delay in terms of Rule 2(2)(e) and its duty to ensure parties are able to fully participate in the proceedings, in terms of Rule 2(2)(c). The Tribunal was concerned that the Respondent was not in attendance and could not participate in the proceedings. However, the Tribunal was also aware that the updated rent statement lodged on behalf of the Applicant had shown a considerable increase in the rent arrears, with no payments made towards the rent in the period since the decision had been recalled.
21. The Tribunal decided to hear from the Applicant as to the current position. The Tribunal explained that further consideration would be given as to whether an adjournment would be in order, having heard from the Applicant.
22. The Applicant said no further payments of rent had been received from the Respondent since March 2026. The arrears are now £10,450. The Applicant said this is a difficult situation for him, and it is severely affecting his mental health. The Applicant is 68 years old and wishes to retire, but the situation with the Property has meant that he has had to delay his retirement. The income from the Property forms a significant part of the Applicant's pension plan, and he has been badly affected by the loss of income. It was his position that the Respondent can find other accommodation, but he has no alternative. If no order is granted, the situation will continue and his financial position will worsen. The Applicant said there is no mortgage on the Property, but there are maintenance and letting agent costs. The Applicant said the Respondent has made so many promises in the past, including agreeing to a payment plan in September 2025, to which she did not adhere.

23. Responding to questions from the Tribunal regarding the proposal made by the Respondent in her written representations, the Applicant said he was sceptical, due to past unfulfilled promises, and the length of time the situation has been ongoing. The Applicant said he now wishes to sell the Property, and that would be the case even if the rent was increased as proposed by the Respondent. The Applicant said he feels he has no hope, and the Property as an asset is his only hope for the future.
24. Responding to questions from the Tribunal regarding whether there had been any contact from the local authority regarding assistance to the Respondent, the Applicant said there had been no contact. The Applicant said there was mention from his letting agent in December 2025 of the Respondent accessing a discretionary housing payment from the local authority, but nothing had been forthcoming.
25. Responding to questions from the Tribunal on the Respondent's circumstances, the Applicant said he was unaware if the Respondent had more than one child. The Property is managed by the letting agent, so there is no correspondence or contact between the parties. The Applicant said that the Respondent's email suggests she is now fit and healthy enough to hold down employment.
26. The Tribunal adjourned to consider matters. The Tribunal considered whether it would be in the interests of justice to adjourn the hearing to another day to allow the Respondent to appear. The Tribunal noted that the Respondent had not been informed at any stage that the hearing had been postponed. The Respondent had been provided with a request for a postponement from the other party's representative, and the Tribunal considered that she should not have taken that as an indication that the hearing had been postponed. It was incumbent upon the Respondent, if she had any doubt about the matter, to contact the case worker to clarify the position. The Respondent failed to do so, despite the seriousness of the issue. This was not a reasonable position to take. In any event, the Respondent was notified on 11th September 2026 that the hearing was going ahead. The Tribunal noted that the Respondent had now failed to attend two hearings.
27. The Tribunal noted that the Respondent did not request a postponement of the hearing, but asked that the Tribunal take into account the proposal set out within her representations when considering how the matter should proceed. The Tribunal had a full discussion with the Applicant concerning the Respondent's proposal. The Applicant was not persuaded by the proposal based on historical dealings with the Respondent.
28. The Tribunal took into account the significant harm done to the Applicant by the Respondent's failure to pay rent over a sustained period, and her failure, despite several promises, to address the arrears. The Tribunal took into account the likelihood of that harm continuing to the detriment of the Applicant's health, retirement and financial position, if the case was to be

adjourned to a further hearing which was not likely to be scheduled until early 2027.

29. The Tribunal noted that the Respondent had submitted no evidence to support her proposal. Despite stating again in her recent representations that she is now in settled employment which would allow her to recommence making monthly payments, she has not done so. Despite being given an opportunity following recall of the decision to show good faith and make some attempt to address matters, she has not done so.
30. The Tribunal considered there was a degree of urgency that necessitated a decision being taken on the eviction order application without any further delay.
31. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 24(1) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent upon the representations of the Applicant, and the written material before it, including the Respondent's representations and productions.

Findings in Fact and Law

32.

- (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 28th July 2021 at a monthly rent of £750
- (ii) The Applicant has served a Notice to Leave upon the Respondent.
- (iii) The Respondent has accrued rent arrears.
- (iv) The Respondent has been in rent arrears for three or more consecutive months.
- (v) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
- (vi) The Applicant has complied with the pre-action protocol.
- (vii) The Applicant's health has suffered as a result of the Respondent's failure to pay rent and address the arrears.
- (viii) The Applicant's financial position has suffered as a result of the Respondent's failure to pay rent and address the arrears.
- (ix) It is reasonable to grant an eviction order.

Reasons for Decision

33. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal may find that this applies if for three or more consecutive months the tenant has been in rent arrears and the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order. The Tribunal is satisfied that Ground 12 has been established.
34. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over that period is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. There was no evidence before the Tribunal that the Respondent was in rent arrears as a result of a delay or failure in the payment of a relevant benefit.
35. In deciding whether it is reasonable to issue an eviction order, the Tribunal is to consider the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations. The Tribunal was satisfied on the evidence before it that the Applicant has complied with the pre-action protocol by sending correspondence to the Respondent.
36. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
37. The Applicant has suffered considerably as a result of the Respondent's failure to pay the rent and address the arrears. This has affected the Applicant's retirement plans, his financial position and his mental health. The Applicant is entitled to expect the rent on his property to be paid. The Applicant has been patient and has agreed to a payment plan, which was not adhered to by the Respondent.
38. The arrears of rent are substantial, and the Respondent has failed to comply with an agreed payment plan. The Respondent has paid no rent since March 2026, at which time the arrears were considerable. The Respondent stated in May 2026 that she had secured additional employment which meant she was able to 'continue paying back rent'. Nothing has been paid.
39. The Respondent claims that she would be in a position to clear the arrears within three months, but no evidence was provided to substantiate this. The Tribunal noted that the Respondent previously provided an email dated 29th April 2026 from the local authority which indicated that she had approached them in respect of a Discretionary Housing Payment on 22nd April 2026. The local authority invited the Respondent to provide permission for them to contact the landlord directly to discuss the tenancy and rent arrears. The Applicant confirmed that there had been no contact from the local authority to himself or the letting agent. The Tribunal noted that a Discretionary Housing Payment had been raised in December 2025, which had come to nothing.

40. The Respondent did not provide any evidence of child maintenance arrears, and no evidence that any such payment was forthcoming. The Tribunal noted that, in her 14th May 2026 representations, the Respondent referred to payment from a redundancy hearing which would be used to pay off the arrears. No such payment towards the arrears was made, and this matter was not referred to in the more recent emails from the Respondent.
41. In the Tribunal's recall decision, parties were clearly informed that evidence should be submitted no later than 14 days before the hearing. No evidence was received from the Respondent, despite her stating that evidence was available. It was incumbent upon the Respondent to lodge all evidence that would support her position in advance of the hearing. The Tribunal took into account that nothing has changed in the period since the recall was granted, other than the continued failure to pay the rent or address the arrears. The Tribunal considered it likely that, if no order was granted, the rent would remain unpaid and the arrears would continue to rise. The Respondent has made promises in the past to address the rent and arrears, and these have come to nothing. The tenancy appears to be unsustainable.
42. The Tribunal took into account the information provided that the Respondent previously had health issues and that there is a child living in the Property. The Respondent referred to her child experiencing racism and threats at school, and to emotional distress and instability in the household in May 2026. The Tribunal was unable to assess the current likely effect of an eviction order upon the Respondent and her family in the absence of any representations in this regard. The Tribunal noted that the Respondent has a diagnosed health condition, but she is currently in settled employment, and no further indication was provided of how this condition affects her health.
43. The Tribunal was not persuaded that the Respondent's promises to pay the monthly rent and clear the arrears would come to anything, given past promises, complete lack of engagement, and failure to adhere to a previous agreement. In all the circumstances, the Tribunal considered that the consequences for the Applicant of not granting an order would be considerable, further affecting his financial position, his retirement plans, and his health. The Tribunal considered that the local authority has a duty to provide accommodation for the Respondent and her child in the event of them becoming homeless if an eviction order is granted.
44. In all the circumstances, the Tribunal considered it was reasonable to grant the order sought.

Decision

45. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 19th October 2026.

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.

Helen Forbes

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Legal Member/Chair

14th September 2026
Date