



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

Chamber Ref: FTS/HPC/EV/26/0911

Re: Property at Flat 1/1, 38 Cathcart Road, Rutherglen, Glasgow, G73 2QZ ("the Property")

Parties:

**MESSERS.MCKECHNIE, 581 Kilmarnock Road, Newlands, Glasgow, G43 2TH
("the Applicant")**

**Mr Robert Davitt, Flat 1/1, 38 Cathcart Road, Rutherglen, Glasgow, G73 2QZ
("the Respondent")**

Tribunal Members:

Hilary Macandrew (Legal Member) and Robert Buchan (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 be granted.

1) Background

- 1.1 By Application dated 22nd February 2026 the Applicant sought an order under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016
- 1.2 The application to the Tribunal was made by Form E and was accepted for determination by the Tribunal on 6th May 2026.
- 1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondent by sheriff officers on 13th August 2026.
- 1.4 The Applicant lodged the following documents in advance of the case management discussion (CMD):-

- Private Rental Tenancy agreement
- Notice to Leave ('NTL')
- Section 11 Notice
- Extracts from Rent Book and Bank Transfer Details
- Updated Rent Statement

1.5 A Case Management Discussion was set to take place on 16th September 2026. Intimation was given to the Respondent by Sheriff Officers on 13th August 2026.

2) The Case Management Discussion ('CMD')

2.1 The CMD took place by tele conference on 16th September 2026. Ms Angela McKechnie who is one of the Applicants took part on her own behalf and on behalf of the Applicants. The Respondent was neither present nor represented. The start of the CMD was delayed by five minutes to await the Respondent. He did not take part.

2.2 The Applicant sought the Eviction Order based on Ground 12 of Schedule 3 of the Act.

2.3 Ms McKechnie explained that the property is a self-contained apartment which is formed from a flat divided into two apartments. She and her family own both apartments in the flat and other properties in the area of which they are private landlords.

2.4 The lease is a Private Residential Tenancy which started on 11th August 2024. The monthly rent was, and is, £125 per week or £541 per month. The Respondent has been in arrears continually since 29th January 2025. At the time of service of the NTL the arrears were £1020. At the time of raising proceedings, they were £2080. At the time of the CMD the arrears are £6520. No payments have been made in 2026, all as shown in the Rent Statement and updated Rent Statement produced.

2.5 Ms McKechnie talked of attempts being made to contact the Respondent. He is still living in the property. This is known because her mother cleans the communal stairs. The most recent communication with the Respondent was a WhatsApp message from Ms McKechnie to the Respondent on 3rd February 2026 asking him what was happening about the rent to which there was no response.

2.6 Ms McKechnie explained that she and her family have a portfolio of rental properties. The lack of rent for this property is having an effect on their ability to pay for maintenance and repairs to the properties which are generally older, traditional properties. There is a roof repair needed at the block in which the property forms part and the lack of income is affecting the Applicants ability to go ahead with the repair.

- 2.7 Ms McKechnie explained that the Respondent is a single man of 30 years. He has no dependents at the property. The property is arranged for single occupancy. He is understood to be employed in catering and has had a number of jobs in restaurants. His mother has assisted in paying rent in the early stages of the lease but not recently. The property is a first floor property. It is not adapted for disabled living and therefore it is understood the Respondent has no disability which might affect his ability to pay rent. There is no history of the Respondent being reliant on benefits. The tenancy has been satisfactorily maintained as far as Ms McKechnie is aware. Neighbours have alerted the Applicants to a number of police visits and possibly an arrest at the tenancy but nothing significant. The Respondent is not engaging. Ms McKechnie's mother regularly cleans the common parts but has not been approached by the Respondent other than to pass her by.
- 2.8 Rule 17 of the First-Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 provides that the Tribunal may do anything at a CMB which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a hearing.

3) Findings in Fact and Law

- 3.1 The Tenancy agreement is a Private Rental Tenancy Agreement which commenced on 11th August 2024.
- 3.2 On 14th October 2025 the Applicant personally served Notice to Leave on the Respondent under Ground 12 of Schedule 3 to the Act. The Notice to Leave became effective no earlier than 12th November 2026. The Notice was correctly drafted and provided sufficient Notice.
- 3.3 The Respondent had been in arrears of rent by an amount equal to or greater than the equivalent of one month's rent under the tenancy and has been in arrears for more than three or more consecutive months.
- 3.4 The basis for the Order for possession was accordingly established.

4) Issue For The Tribunal

- 4.1 The issue for the Tribunal is to determine whether or not it is reasonable to grant the Order.
- 4.2 The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah* 1943 SC 245 whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the Application was made.

- 4.3 The Tribunal found that the Applicant is entitled to recovery of the property. The Tribunal had regard to the significant level of rent arrears and particularly current non payment stretching back to the beginning of 2026. The Respondent has not engaged with the Applicant nor with the Tribunal process. There is no issue with non-payment of state benefits or allowances which would mitigate the arrears or meet the current rent. The Applicants are financially disadvantaged by the non payment of rent. The Respondent continues to live in the property and is not paying rent lawfully due.
- 4.4 Accordingly, the Tribunal was satisfied that it is reasonable to grant an order for eviction.

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.

**H Macandrew
Legal Member/Chair**

**16th September 2026
Date**