



**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**

Chamber Ref: FTS/HPC/EV/25/2638

Property: 44 Auchinraith Avenue, Hamilton ML3 OJQ ("Property")

Parties:

**Joseph Sander, 74 White Lion Road, Amersham, Buckinghamshire HP7 9JS
("Applicant")**

**Claire Bachurzewski, 44 Auchinraith Avenue, Hamilton ML3 OJQ
("Respondent")**

Tribunal Members:

Joan Devine (Legal Member)

Mary Lyden (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber)
("Tribunal") determined to grant an order for possession of the Property.**

Background

1. The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Tenancy Agreement which commenced on 15 July 2023; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 23 April 2025 ("Notice to Leave"); copy email from the Applicant to the Respondent dated 23 April 2025 attaching the Notice to Leave and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 17 June 2025.
2. On 10 November 2025 the Respondent lodged written representations. A Case Management Discussion ("CMD") took place before the Tribunal on 21 November 2025. Reference is made to the note of the CMD. The outcome of the CMD was that the Tribunal fixed an evidential hearing to take place on 3 July 2026 and issued a direction. On 15 January 2026 the Respondent lodged a response to the direction. On 28 January 2026 the Applicant lodged a

response to the direction. On 17 February 2026 the Applicant lodged a further inventory of productions.

3. A Hearing was scheduled to take place on 3 July 2026 at Glasgow Tribunals Centre. On 29 June 2026 the Respondent asked for the Hearing date to be postponed. This was granted and a fresh date was fixed for 1 October 2026.
4. On 29 June 2026 the Applicant's Representative lodged an updated statement of rent arrears, a gas safety certificate and an invoice for the installation of a new boiler at the Property dated 10 April 2022.
5. The Tribunal issued a Direction dated 3 July 2026 in the following terms :

The Respondent is required to lodge with the Tribunal :

1. *Evidence of the outstanding rent having been placed in a separate bank account pending resolution of the question of entitlement to withhold rent.*
2. *A written submission stating whether she continues to reside at 44 Auchinraith Avenue, Hamilton ML3 OJQ.*

The said documentation should be lodged with the Tribunal no later than close of business on 20 July 2026.

No Response to the Direction was lodged by the Respondent. The Tribunal followed up seeking a response to the Direction. No response was received.

6. On 14 September 2026 the Applicant lodged an updated statement of rent arrears which indicated arrears of £14,400.

Hearing

7. On 1 October 2026 a Hearing took place at Glasgow Tribunals Centre. Only the Applicant was in attendance. The Tribunal was satisfied that the date of the Hearing had been intimated to the Respondent.
8. The Hearing was in respect of the application for a possession order and also in respect of the conjoined civil application in which the Applicant sought a payment order in respect of rent arrears which proceeded under reference FTS/HPC/CV/25/2639.
9. The Tribunal noted that an email received from the Respondent dated 12 February 2026 indicated that alternative housing was being made available by the local authority for the Respondent but they had not yet moved to the alternative accommodation as repairs were being carried out. The Tribunal asked the Applicant if the Respondent continued to live in the Property. The Applicant said that he had driven past the Property but had not gone to the

Property to make inquiries due to an allegation of intimidation having been made by the Respondent. He said that there had been no communication with the Respondent for a long time. The Tribunal note that the Respondent had been asked to confirm whether they continued to reside in the Property but no response was received.

10. The Tribunal noted that the tenancy commenced on 15 July 2023 and that the rent was £650 per month. A statement of arrears had been lodged which indicated current arrears of £14,400. The last rental payment was made in January 2025.

11. The Tribunal noted that at the CMD the Respondent had indicated rent had been withheld as there were outstanding repairs at the Property. The Tribunal heard evidence from the Applicant regarding the need for repairs to be carried out at the Property. Reference is made to the Decision in the conjoined civil application proceeding under reference FTS/HPC/CV/25/2639 ("Civil Application").

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement which commenced on 15 July 2023.
2. The Notice to Leave was served by email on 23 April 2025.
3. At the date of service of the Notice to Leave and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 17 June 2025.

Findings in Fact and Law

The Tribunal made the following findings in fact and law:

1. In the circumstances of the case, it is reasonable to grant an order for possession of the Property.

Reasons for the Decision

12. The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51, the Tribunal may issue

an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies. In the Notice to Leave the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 12 which is that the tenant has been in rent arrears for three or more consecutive months.

13. At the CMD the Respondent told the Tribunal that she had withheld rent due to the Applicant's failure to carry out necessary repairs at the Property. Reference is made to the Decision in the Civil Application dated 1 October 2026 in which the Tribunal determined that whilst the Respondent was entitled to an abatement of rent, arrears of £7,900 remained due. In those circumstances the Tribunal determined that ground 12 had been established.

14. Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order

Decision

15. The Tribunal grants an order for possession of the Property.

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.

Joan Devine

**Joan Devine
Legal Member**

Date: 9 October 2026