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) of the Private Housing (Tenancies) (Scotland) Act 2016 ("the Act")

Chamber Ref: FTS/HPC/EV/25/2718

Re: Property at Flat 1/2 93 Inglefield Street, Glasgow, G42 7PP ("the Property")

Parties:

Mohammed Merajuddin, 1-862 M S K Mill Road, Noble School Compound Opp Govt Press, Station Bazar, Gulbarga Gb Rs, Afzalpur Gulbarga, Karnataka 585102, India ("the Applicant")

Aimee McKay, Flat 1/2 93 Inglefield Street, Glasgow, G42 7PP ("the Respondent")

Tribunal Members:

Fiona Stephen (Legal Member) and David Godfrey (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application for the order for eviction should be granted.

Background

1. By application dated 23 June 2025, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Ground relied on was Ground 12 of Schedule 3 to the Act, namely that the rent has been in arrears for three or more consecutive months.

2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties commencing on 1 June 2024 at a rent of £950 per month, a Notice to Leave dated 1 May 2025 advising the Respondent that an application under Ground 12 of Schedule 3 to the Act would not be made before 31 May 2025, a pre-action protocol letter dated 15 April 2025 and a Rent Statement showing arrears of £8,100 at the date of the application.

3. A Case Management Discussion ("CMD") was fixed for 28 January 2026 at 10am. Appropriate notice of the CMD was given to the Respondent by Sheriff Officers who served her with the papers on 5 December 2025 conform to execution of service of the same date. Written representations were due to be lodged with the Tribunal by 25 December 2025.

4. The Tribunal has had regard to the Notes on the Case Management Discussion dated 28 January 2026 a copy of which was sent to both parties.

5. On 21 January 2026 the Respondent submitted written representations to the Tribunal. These contained sensitive personal information relating to the Respondent. The Tribunal's administration contacted the Respondent to request her permission to share these with the Tribunal and Applicant. Due to an administrative delay this request was not sent to the Respondent until the morning of 28 January. The Respondent provided permission that day and the written representations were sent to the Tribunal and Respondent shortly before 2pm on 28 January 2026, the date of the CMD. The Tribunal and Respondent did not have an opportunity to consider these fully.

6. The CMD took place on 28 January 2026. The Applicant's representative, Mr Haq attended. The Respondent was also in attendance. Mr Haq did not oppose an adjournment in the circumstances given he had not had time to consider the Respondent's written submissions in full. The Applicant confirmed that the rent arrears were £14 750.00. The Respondent did not dispute the amount of the arrears or that these represented 16 months of rent payments but she opposed eviction for the grounds set out in her written submissions. She did not dispute that she was not paying the rent as it fell due and not paying any arrears. She said she had tried to contact the Landlord four or five times to arrange a payment plan and explain her situation but received no response. She had to arrange universal credit but needed some documents from Mr Haq and he had not provided those. This was disputed by Mr Haq.

7. In addition, within the written representations, the Respondent stated that (i) she had not been getting mail or had access to her phone due to her being in an abusive and controlling relationship; (ii) she had reported the circumstances of her relationship to the police and had asked for confirmation from the police to prove this; (iii) the father of her child was to be deported; (iv) she suffered from severe depression and anxiety; (v) family members were offering to help her financially and pay off a substantial amount of the arrears but due to lack of contact from the Applicant that could not be formalised or support actioned; (vi) the government had agreed to pay her rent directly to the Applicant which would have significantly reduced or prevented a substantial proportion of the rent arrears but she could not arrange this due to a lack of response from the Applicant; (vii) she had been on the housing list for over 9 months but no suitable offers had been made and, as a result of the arrears, was limited to the housing associations she could use which would take her further away from family; (viii) eviction put her and her son at risk of homelessness; (ix) she had worked for the Financial Ombudsman Service but got made redundant; (x) she secured another job working from home but missed out on maternity pay; (xi) she was relying on universal credit to meet her basic needs; (xii) she had been hospitalised in December 2025 due to domestic abuse; (xiii) she was rebuilding her life and

needed further time to deal with everything; (xiv) her son had health issues and needed a stable life; and (xv) she could not stay with family members due to lack of space.

8. Following the CMD held on 28 January 2026 the Tribunal issued a Direction to the Respondent, to provide a copy of her application to the Department of Work and Pensions ("DWP") for benefits including rent and/or rent arrears and any documentation or information she wished to provide in relation to her claim for benefits. She was also to send the Applicant the information required by the DWP. This was to be provided by 4 February 2026. The Applicant was to provide an up to date rent statement 14 days before the next CMD.

9. On 3 February 2026, the Respondent sent the Applicant a note of what information was required by the DWP. She advised the Tribunal that she had asked for a meeting with the DWP to discuss potential help with arrears. She did not provide any further information or documentation to the Tribunal.

10. On 13 February 2026, the Applicant provided the documents the Respondent had requested for DWP purposes.

11. On 10 February 2026, the Applicant's representative disagreed that the Respondent sought a repayment plan, even after she received the pre-action protocol letter dated 15 April 2025.

12. On 10 March 2026, the Applicant's representative wrote to the Tribunal detailing a number of matters as follows: (i) having reviewed WhatsApp correspondence which he produced, there was no evidence of the Respondent requesting a repayment plan or proposed instalments. No rent payments were made after a part payment in September 2024; (ii) on 22 September 2024, the Respondent stated she was unable to pay full rent due to a veterinary bill. The Applicant agreed to allow additional time for payment; (iii) on 31 October 2024 the Respondent advised the Applicant she had started a new job; (iv) on 11 December 2024 the Respondent responded to a request for an update on outstanding arrears. She said she was in financial difficulty but did not request a payment plan or propose instalments; (v) on 5 December 2024 the Applicant requested an update on rent arrears from the Respondent but no repayment plan was made; (vi) no proposals were made following the issue of the pre-action protocol letter by McLaughlin & Co, Solicitors, Kirkcaldy dated 15 April 2025; and (vii) the first reference to the Respondent paying by instalments appears in her message dated 11 May 2025 which was on a date after the Notice to Leave. No specific amounts or dates were proposed.

13. A further CMD by means of a telephone conference call was scheduled for the morning of 16 March 2026, but due to technical issues, neither the Parties nor the Tribunal Members could connect to the call. The Tribunal Members decided that the CMD should be postponed and this was rearranged for 16 April 2026 at 10am. The date was intimated to the parties.

14. On 15 April 2026, the Applicant's representative lodged an up to date rent statement showing that rent arrears as at April 2026 were £18 100.00.

15. The Respondent provided no further information or documentation to the Tribunal prior to the CMD.

16. On the morning of the CMD held on 16 April 2026, the Tribunal members received intimation of an email sent to the Tribunal by the Respondent on 15 April 2026 (14:49) in which she advised that she could not attend the CMD due to herself and her son being “extremely sick this week”. She requested an adjournment of the CMD. No medical evidence was provided. In light of that, the Tribunal members asked the clerk to contact the Respondent prior to 10am to advise that they were minded to continue with the CMD and asked whether she could attend.

17. Mr Haq, the Applicant’s representative attended the CMD at 10am. The Legal Member advised him of the Respondent’s request for an adjournment. In the circumstances, he did not oppose an adjournment.

18. In the meantime, a further response by email had been received from the Respondent. She provided greater detail of her medical condition and advised that she had been admitted to hospital and could provide a doctor’s note. Her son was still poorly. The Tribunal members adjourned for a short time to discuss.

19. The CMD reconvened and the position of the Respondent was explained to the Applicant’s representative. He confirmed that he had no objection to postponement of the CMD.

20. The Tribunal noted from the Applicant’s representative that no contact had been received from the DWP, no direct payments of rent had been received by the Landlord by way of any benefits and no payments of rent had been made by the Respondent towards the arrears or current rent. He referred to the up to date rent statement which showed outstanding rent as at 16 April 2026 to be £18 100.00. He explained that the arrears were at such a level that it was impacting the Applicant financially and he may require to sell the property.

21. The clerk had ascertained that a further hearing date could be made available on 9 June 2026. In the circumstances and on cause shown, the Tribunal adjourned the CMD in terms of Rule 28 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and fixed a full hearing to take place by teleconference in due course.

22. Following the hearing, the Tribunal issued a Direction to the parties. It required the Respondent to provide the Tribunal with a soul and conscience certificate relating to her non-attendance by 28 April, any correspondence from the Department of Work and Pensions confirming the outcome of her application for benefits for rent/rent arrears for the Property that she advised the Tribunal she was making in January/February 2026; and whether she intended to lead any witnesses at the hearing and to provide a brief note of their evidence. This was to be provided 14 days prior to the Hearing. The Applicant was similarly asked to provide a note of whether he intended to lead any witnesses at the hearing and provide a brief note of their evidence 14 days prior to the hearing. He was also asked to provide an up to date rent statement 7 days prior to the hearing.

23. The Applicant provided an up to date rent statement showing the rent arrears at £20 000.00 as at June 2026 which was made available to the Tribunal on the date of the Hearing. The Respondent provided no further information.

The Hearing

24. The Tribunal had before it:

    i) Form E;
    ii) Tenancy Agreement;
    iii) Power of Attorney authorising Mr Haq to bring the proceedings;
    iv) Pre-action protocol letter;
    v) Notice to Leave with proof of service;
    vi) Section 11 with proof of service;
    vii) Written representations by the Respondent dated 21 January 20926;
    viii) Case Management Discussion Notes dated 28 January, 23 March and 16 April;
    ix) Directions dated 28 January and 16 April;
    x) Various rent statements from the Applicant;
    xi) Case papers.

25. On the morning of the Hearing to be held on 9 June 2026 at 10am, the Tribunal members received intimation of an email sent to the Tribunal by the Respondent on 8 June 2026 (16:31) stating that she would not be able to attend the Hearing as a result of her mother passing away on 27 April 2026. She stated that her mother was her main source of help and childcare leaving her unable to work. She was struggling from depression and anxiety. She stated she was working with a housing officer to try and find a suitable home closer to family but this was proving difficult due to her current arrears. She had contacted Glasgow City Council for help with her arrears and was waiting to hear back from them. She was struggling to carry out basic activities and was actively trying her best to do what is right for all parties. She produced a photo of a form headed “Statement of Fitness for Work For social security or Statutory Sick Pay”. It showed that she had been assessed on 26 May 2026 as not being fit for work due to bereavement for 42 days. The form was signed in type written form by Dr Emily Ralph. No other information was provided.

26. The Tribunal members convened prior to the Hearing to discuss the position and determined that they would hear from the Applicant’s representative. The Hearing proceeded at 10am. The Tribunal noted that Mr Haq was appearing for the Applicant and had no witnesses. He apologised for the late lodging of the up to date rent statement, advising that he had not set his reminders correctly.

27. The Tribunal told Mr Haq that they had been informed this morning that the Respondent would not be appearing today. He had not seen the Respondent’s email. The Tribunal explained that they had been told by the Respondent that her mother had passed away on 27 April. She had produced a form signed by a doctor dated 8 June that confirmed she had been signed off as unfit to work for a period of 42 days. Whilst she did not say so in terms, the Tribunal took from the email that she was seeking a further adjournment of the proceedings. The

Tribunal noted that this was the second request for an adjournment by the Respondent (excluding the unavoidable adjournment on 16 March).

28. Mr Haq stated that he was sorry for the situation that the Respondent was going through and he understood it must be difficult for her. However, the current situation with the rent arrears was making things very difficult for the Applicant. No payments had been received from the Respondent since the last hearing. The rent arrears now stand at £20 000.00. No-one from the DWP has been in touch despite providing the Applicant's details to the Respondent as requested. If the Respondent is in receipt of universal credit then nothing from that has been paid to the Applicant.

29. The rent arrears situation is making things very difficult for the Applicant (Mr Haq's cousin). It is a burden for the family and causing stress. The Respondent has made no direct contact with the Applicant or his representative. The Applicant has tried to arrange access to enable the yearly gas certificate to be obtained. The Applicant's contractor, Paul Igo offered the Respondent 6 April but she said she was back at work and could not offer any time for 4 weeks. Accordingly, the gas certificate has not been updated.

30. Mr Haq explained that the rental income is a substantial income for the family. The Property belonged to Mr Haq's aunt initially and that inheritance went to her brother (Mr Haq's uncle). He then passed away and the Property passed to the Applicant. As is the custom, the Applicant (who is in his late 40's/early 50's) has to look after members of the family which currently are an aunt (who is 97 years old) and two other elderly sisters. The Property was bought by the aunt as an investment property. It is very stressful to go through all of this. The Applicant refurbished the property before letting it to the Respondent. The Applicant wishes to regain possession of the Property and then sell it. Despite the Respondent's difficult situation, Mr Haq confirmed that he opposed any further delay to this case and would wish a decision to be made.

31. The Tribunal adjourned for a short time to discuss the position. The Tribunal had regard to Rule 28 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the procedure rules") concerning the adjournment or postponement of a hearing. It was noted that Rule 28 (2) (a) provides that the party who seeks an adjournment must, if practicable, notify all parties of the application (b) show good reason why an adjournment is necessary and (c) produce evidence of any fact or matter relied on in support of the application for adjournment. Rule 28 (3) provides that the Tribunal may only adjourn or postpone a hearing on cause shown.

32. Whilst the Tribunal was sympathetic to the Respondent's situation and recent bereavement some 6 weeks ago and, in the absence of relevant history, would ordinarily have likely agreed to an adjournment in such circumstances, having regard to all of the background circumstances in this case, it did not consider that the Respondent had shown sufficient cause to justify a further delay and refused the application for a further adjournment. The factors taken into account by the Tribunal included: (i) the Notice to leave was dated 1 May 2025; (ii) this application was lodged on 23 June 2025, the application

accepted on 13 August 2025 and papers were served on the Respondent on 5 December 2025; (iii) the Respondent accepted that she was in significant arrears of rent in January 2026 at which point they stood at £14 750.00 (although she objected to eviction) at which point proceedings were adjourned; (iv) the Respondent had not complied with the Tribunal's Direction dated 28 January 2026 in that she had not provided a copy of her application to the DWP; (v) although the Respondent stated she was liaising with the DWP, the Council and a housing officer, no independent verification has been received of this; (vi) the Respondent failed to comply with the Tribunal's Direction dated 16 April 2026; (vii) this was the second request for an adjournment by the Respondent and (viii) crucially, at no point has the Respondent made any attempt to make any payment to the Applicant towards the arrears of rent or current rent. There appears to be a pattern of the Respondent seeking an adjournment of hearings on the day of or very shortly beforehand. This is disrespectful to the Tribunal and the other party. There appears to be no reason why the Respondent could not have given the Tribunal earlier notice of the position relating to her mother given notification of the Hearing date was confirmed in the Case Management Discussion Note and the formal notification emailed to her on 8 May 2026.

33. In addition, the Tribunal had regard to the overriding objective of the procedure rules to deal with the proceedings justly in term of Rule 2. In particular the Tribunal had regard to Rule 2(a) – dealing with the proceedings in a manner which is proportionate to the complexity of the issues and the resources of the parties; Rule 2(c) – ensuring the parties are on an equal footing procedurally and are able to participate fully in the proceedings and Rule 2 (e) avoiding delay so far as compatible with the property consideration of the issues. The Respondent has set out her position on paper and accepts that she is in significant arrears of rent. Her claim that the Council will help her with her arrears is not credible in the absence of some confirmation from the Council. The Respondent claimed that she has been working with a housing officer for a period of 9 months prior to January 2026 and since yet has not provided any independent confirmation that this is the case. It is not clear what steps the Respondent has taken, if any, to secure universal credit but even if she has, that would be very unlikely to deal with the arrears of rent in any significant way. The Respondent had claimed that her family might be able to assist financially but again, no adequate information about this was provided. Had a further delay been allowed, then the Tribunal considered this would not be fair or just to the Applicant. The Applicant has not received full payment of rent since September 2024.

34. On reconvening, the Tribunal advised Mr Haq that they were refusing the Respondent's application for a further adjournment. The Tribunal considered that it had sufficient information on the papers and from Mr Haq to consider its decision. The Tribunal asked Mr Haq if he had anything to add but he did not. The Tribunal explained that a written decision would be issued as soon as possible.

Findings in Fact

35. The Applicant is represented by Mr Niaz Haq in terms of a Power of Attorney dated 9 March 2024;

36. The Applicant is the registered owner of the Property;

37. The Applicant let the Property to the Respondent under a Private Residential Tenancy Agreement dated 1 June 2024 within the meaning of the Act;

38. The agreed monthly rental for the property was £950.00 which commenced on 1 June 2024;

39. The Applicant has competently served a notice to leave on the Respondent dated 1 May 2025 under ground 12 of Schedule 3 of the Act. Service was effected by Walker Love Sheriff Officers on that date conform to execution of service of the same date. The notice became effective on 31 May 2025. The notice informed the tenant that the landlord wished to seek recovery of possession using the provisions of the Act;

40. The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003;

41. As at the date of the Notice to leave the Respondent had been in arrears of rent for three or more consecutive months as required under ground 12 of Schedule 3 of the Act. She was in arrears of 5 months rent at that time which amounted to £5,250.00;

42. Arrears had started to accrue from 1 September 2024;

43. The Respondent accepted at the Case Management Discussion held on 28 January 2026 that she was in arrears of rent which at that date amounted to £14 750.00;

44. The amount of arrears at the date of the Hearing was £20 000.00 as shown by the up to date rent statement provided by the Applicant;

45. Prior to serving the Notice to Leave and raising this application, the Applicant's solicitor, McLaughlin & Co, Solicitors, Kirkcaldy sent a pre-action protocol letter to the Respondent dated 15 April 2025. The Respondent did not respond;

46. The Applicant has had no contact from the Respondent for many months;

47. The Applicant provided information to the Respondent, as requested by her, for the purposes of her application to the Department of Work and Pensions for universal credit;

48. The Applicant has received no contact from the Department of Work and Pensions;

49. The Respondent is not paying the current rent and has made no payments or any offer to pay the arrears of rent;

50. The Respondent has not permitted the Applicant access to the Property for the purposes of renewing the statutory Gas certificate;

51. The Property is an investment property for the Applicant and his family and the rental income provides a source of income for him;

52. The Applicant has been put under financial distress as a result of the lack of receipt of rental income for the Property since 1 September 2024;

53. The Respondent is currently working and lives in the Property with her young son who has health issues;

54. The Respondent has been signed as unfit to work for a period of 42 days from 26 May 2026;

55. The Respondent has not complied fully with prior Directions of the Tribunal;

56. The basis for the order for possession on ground 12 of Schedule 3 of the Act is established.

Reasons for Decision

57. The order for possession sought by the Applicant was based on a ground specified in the Act and properly narrated in the notices served on the Respondent. The Tribunal was satisfied that notice had been served in accordance with the terms of the Act and the Applicant is entitled to seek recovery of possession on those grounds.

58. The Tribunal accepted the evidence provided by the Applicant with regard to the rent arrears. A rent statement was produced which set out the history of the arrears. Since 1 September 2024 the Respondent has failed to pay the full rent as it fell due and significant arrears have accrued. The last part payment of rent was made by the Respondent was in September 2024. Since that date no payments have been made.

59. The Tribunal was satisfied that the Respondent has been in arrears for a period far in excess of three consecutive months and more. The Tribunal accepted the unchallenged evidence of the Applicant relating to the arrears. The Tribunal accepted that the Respondent herself had confirmed she was in significant arrears of rent. The Tribunal accepted that the Applicant made appropriate attempts to encourage the Respondent to deal with the arrears. The Applicant has fully complied with the relevant provisions of the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.

60. The ground for eviction based on rent arrears is established.

61. Since 7 April 2020, in terms of changes made initially by the Coronavirus (Scotland) Act 2020 and then by the Coronavirus (Recovery and Reform) (Scotland) Act 2022, an eviction order on ground 12 can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.

62. The Tribunal has a duty, in such cases, to consider the whole of the circumstances in which the application is made. It follows that anything that might dispose the Tribunal to grant the order or decline to grant the order will be relevant. This is confirmed by one of the leading English cases, *Cumming v Danson [1942] 2 All ER 653 at 655* in which Lord Green MR said in an often quoted passage:

> "*In considering reasonableness…it is, in my opinion, perfectly clear that the duty of the Judge is to take into account all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad common sense way as a man of the world, and come to his conclusion giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive, but it is quite wrong for him to exclude from his consideration matters which he ought to take into account."*

63. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and weigh the various factors which apply to the parties.

64. In this case the Tribunal finds it is reasonable to grant the order. The balance of reasonableness is weighted toward the Applicant for the following reasons:

65. The level of arrears is extremely high and it is unlikely that the arrears will be repaid or current rent paid. The Respondent is making no attempt to meet the current rent or arrears of rent. The Respondent has made no attempt to engage with the Applicant. The Respondent stopped paying the rent in September 2024. Although she claimed she was made redundant she stated that she was in work again but had made no attempt to make any payment. She has claimed that she will make an application to the Department of Work and Pensions for universal credit but no evidence of this has been produced and no payments have been made to the Applicant as a result. The Respondent has claimed that her family could help out with payments but nothing has come of this. The Respondent claims that she is finding it difficult to obtain alternative accommodation due to the size of the rent arrears. She says she has been in touch with a Housing Officer for 9 months before January 20926 and since. The Respondent has provided no independent evidence of this. Whilst the Tribunal has sympathy for the Respondent's situation, it has to balance that against that of the Applicant. If the tenancy continues, in all likelihood further rent arrears will build up. It is not reasonable that the Applicant should, in effect, continue to provide rent free accommodation to the Respondent. The lack of payment of rent since September 2024 is causing the Applicant financial distress, particularly as he

is responsible for looking after other members of his family. The Applicant has not been able to access the property for the purpose of obtaining statutory certificates. Any delay in dealing with this matter would cause significant prejudice to the Applicant as the arrears of rent are likely to continue to accrue.

66. The Tribunal decided to exercise the power within rule 26 of the procedure rules and determined that a final order should be made at the Hearing.

Decision

The Tribunal makes an order for eviction of the Respondent, Aimee McKay from the proprety at Flat 1/2 93 Inglefield Street, Glasgow, G42 7PP.

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.

Legal Member/Chair **Date: 9 June 2026**

Fiona Stephen