

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

**Chamber Ref: FTS/HPC/EV/24/5013**

**Re: Property at 3/3 1 Ellerslie Crescent, Glasgow, G14 0NY (“the Property”)**

**Parties:**

**Sanctuary Homes (Scotland) Limited, 1 Freeland Drive, Priesthill, Glasgow, G53 6PG (“the Applicant”)**

**Mr Abega Andrade, 3/3 1 Ellerslie Crescent, Glasgow, G14 0NY (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Ms E Williams (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 received on 31<sup>st</sup> October 2024, 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 24<sup>th</sup> April 2018 at a monthly rent of £504.96, a rent statement, pre-action requirement correspondence, a notice to leave with evidence of service, and a section 11 notice with evidence of service.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by Sheriff Officer on 1<sup>st</sup> April 2025.
3. By email dated 16<sup>th</sup> June 2025, the Applicant representative lodged evidence of rent increase notices which increased the rent to £589.35 on 1<sup>st</sup> August 2023, and to £628.53 on 1<sup>st</sup> August 2024. The Applicant representative lodged an updated rent statement and copy letter to the Respondent. The updated rent statement showed arrears in the sum of £5625.58.

## **The Case Management Discussion**

4. A Case Management Discussion ("CMD") took place by telephone conference on 18<sup>th</sup> June 2025. Mr Alastair Johnston, Solicitor, was in attendance on behalf of the Applicant. The Respondent was not in attendance. The start of the CMD was delayed to allow the Respondent to attend.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
6. Mr Johnston said the Applicant had not had any recent contact from the Respondent. The Applicant is a private and social landlord. There have only been two payments towards rent and arrears this year. The Respondent is not engaging with the Applicant to address the arrears and non-payment of rent. In order to address the Tribunal on the known circumstances of the Respondent, two adjournments were taken for Mr Johnston to take instructions. Mr Johnston informed the Tribunal that there was believed to be a child of around 9 years old in the Property. The Respondent was in employment at the start of the tenancy. It was not known if the Respondent continued to be in employment. The Applicant's housing officer had ascertained the previous week that the Respondent was still in occupation. The Applicant has been in the habit of putting mail into the Respondent's mailbox.

## **Findings in Fact and Law**

7.
  - (i) Parties entered into a private residential tenancy in respect of the Property which commenced on 24th April 2018 at a monthly rent of £504.96.
  - (ii) The rent was increased annually.
  - (iii) Notice to leave has been served upon the Respondent.
  - (iv) The Respondent has accrued rent arrears.
  - (v) The Respondent has been in rent arrears for three or more consecutive months.
  - (vi) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.

(vii) The Applicant has complied with the pre-action protocol.

(viii) It is reasonable to grant an eviction order.

### **Reasons for Decision**

8. 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.
9. 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.
10. 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 Applicant has complied with the pre-action protocol by sending a letter to the Respondent.
11. The Tribunal considered the arrears to be substantial and rising. The Respondent is not engaging with the Applicant, who has attempted to contact the Respondent by letter and by visiting the Property. There have only been two payments made this year. It would appear that the tenancy is not sustainable.
12. The Respondent did not attend at the CMD to put forward any information on their circumstances or any arguments in respect of reasonableness. The Tribunal considered the limited information it was provided with on the Respondent's circumstances. The Tribunal took into account that there may be a child in the Property, who may be impacted by the granting of an eviction order. However, in the absence of any further detail or any representations from the Respondent, the Tribunal was able to give limited weight to this information.
13. In all the circumstances, the Tribunal considered that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicant. It was incumbent upon the Respondent to attend or make representations to the Tribunal to indicate why an order should not be granted, and the Respondent failed to do so. The Tribunal considered it was reasonable to grant the order sought.

## **Decision**

14 An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 22<sup>nd</sup> July 2025.

## **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. Forbes

18<sup>th</sup> June 2025

Legal Member