

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/24/5390

**Re: Property at Flat 0/2, 231 Wellshot Road, Glasgow, G32 7QD (“the
Property”)**

Parties:

Hamid Movaghatian, 4 Broomhill Avenue, Glasgow, G11 7AE (“the Applicant”)

**Michael Doherty, Flat 0/2, 231 Wellshot Road, Glasgow, G32 7QD (“the
Respondent”)**

Tribunal Members:

Joel Conn (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

Background

1. This is an application by the Applicant for an eviction order in regard to a Private Residential Tenancy (“PRT”) in terms of rule 109 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”). The PRT in question was by the Applicant to the Respondent commencing on 1 December 2018.
2. The application was dated 21 November 2024 and lodged with the Tribunal on that date. The application relied upon a Notice to Leave dated 31 May 2024 in terms of section 50 of the *Private Housing (Tenancies) (Scotland) Act 2016*, intimated upon the Respondent by recorded delivery post (in terms of the Tenancy Agreement) on that date, being signed for on 1 June 2024. The Notice relied upon Ground 12 of Schedule 3 Part 1 of the 2016 Act, relying on arrears of £1,125 overdue from 1 December 2023 to 1 February 2024. The Notice

intimated that an application to the Tribunal would not be made before 1 July 2024.

3. Evidence of a section 11 notice in terms of the Homelessness Etc. (Scotland) Act 2003 served upon Glasgow City Council was provided with the application. There was evidence in the application papers of compliance with provision of the pre-action protocol information in standard form on behalf of the Applicant to the Respondent by letter on 31 May 2024.

The Hearing

4. The matter called for a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 9 June 2025 at 10:00. We were addressed by Paul Cruikshank, solicitor, Ian C McCarthy solicitors on behalf of the Applicant. There was no appearance from the Respondent.
5. We were informed by the clerk that no contact had been received from the Respondent (or on his behalf) with the Tribunal. The Applicant’s agent said that no communication had been received from the Respondent since prior to the lodging of the application. No payment towards rent had been received since 28 July 2024 (which was relied upon both in regard to this application and a conjoined case on rent arrears: CV/24/5391).
6. We noted that the Respondent had received clear intimation of the CMD by the Sheriff Officer instructed by the Tribunal. Having not commenced the CMD until around 10:05, we were satisfied to consider the application in the Respondent’s absence. In any case, no attempt was made by the Respondent (nor anyone on his behalf) to dial in late to the CMD.
7. We sought oral submissions on specific matters and noted the following points from the application papers and submissions:
 - a. As at the date of application the Respondent was in rent arrears for 11 months (totalling £4,125). There had been arrears from 1 December 2023 with only a single payment of £375 on 28 July 2024.
 - b. The monthly rent for the property is £375 to be paid on the first of every month. The Respondent had frequently paid late between January and November 2023. The Respondent had asked for this to be changed informally to suit his own salary schedule, and it was moved first to the 4th and then 7th of the month but the payments then stopped and arrears started to develop from 1 December 2023.
 - c. Arrears now stood at £6,750 covering the period to 30 June 2025.
8. The Applicant’s agent provided further oral submissions on the background in regard to the reasonableness of the application:
 - a. The Property was a two-bedroom flat and it was not believed to be specially adapted for the use of the Respondent, nor especially suitable for his needs.
 - b. The Applicant believed the Respondent to have been of working age.

- c. The Applicant believed the Respondent was in employment as of the arrears starting to rise, but his current employment status was not known.
- d. The Respondent was believed to reside with a partner at the Property.
- e. The Property was mortgaged and the long period without rental income was causing a financial pressure on the Applicant.

9. No motion was made for expenses.

Findings in Fact

- 10. On 10 December 2018, the Applicant let the Property as a Private Residential Tenancy to the Respondent with commencement on 1 December 2018 ("the Tenancy").
- 11. In terms of clause 8 of the Tenancy Agreement, the Respondent required to pay rent of £375 a month in advance on the 1st day of each month. Interest on late payment of rent was to be charged at 8% per annum from the date on which the rent was due until payment.
- 12. As of 31 May 2024, the Respondent was in arrears of rent of £1,500 having failed to make payment of rent from 1 December 2023 until that date.
- 13. On 24 May 2024, the Applicant's legal agent drafted a Notice to Leave in correct form addressed to the Respondent, providing the Respondent with notice, amongst other matters, that he was in rent arrears for a period of three consecutive months and detailing the arrears (relying on the arrears for the payment dates of 1 December 2023 to 1 February 2024).
- 14. The Notice to Leave provided the Respondent with notice that no application would be raised before the Tribunal prior to 1 July 2024.
- 15. The Applicant's agent served a copy of the Notice to Leave on the Respondent by recorded delivery on 31 May 2024.
- 16. The Applicant raised proceedings on 21 November 2024 for an order for eviction with the Tribunal, under Rule 109, relying on Ground 12 of Schedule 3 Part 1 of the 2016 Act.
- 17. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served upon Glasgow City Council by the Applicant's agent.
- 18. A letter complying with the pre-action protocols was issued to the Respondent on behalf of the Applicant on 31 May 2024.
- 19. As of 9 June 2025, the Respondent remains in arrears of rent in the amount of £6,750 which is equivalent of 18 months of rent.
- 20. The Respondent does not claim to have paid any amount of the arrears of £6,750 remaining as at 9 June 2025.

21. The sum of arrears remaining as of 9 June 2025 is neither wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, other than any referable to an act or omission of the Respondent.
22. The Respondent has no known dependents living with him at the Property.
23. The Property is not specially adapted for the use of the Respondent nor is its location specifically suitable for the Respondent's needs.
24. Intimation of the date and time of the CMD was given to the Respondent by Sheriff Officer on 18 March 2025.

Reasons for Decision

25. The application was in terms of rule 109, being an order for eviction from a PRT. We were satisfied on the basis of the application and supporting papers that the Notice to Leave had been correctly drafted and served upon the Respondent in respect of the interests of the Applicant.
26. Ground 12 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:
 - (1) *...the tenant has been in rent arrears for three or more consecutive months. ...*
 - ...
 - (3) *The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—*
 - (a) *for three or more consecutive months the tenant has been in arrears of rent, and*
 - (b) *the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.*
 - (4) *In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider*
 - (a) *whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and*
 - (b) *the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.*
 - ...
27. The arrears information provided at the CMD clearly showed that Ground 12 was satisfied in regard to the length of arrears and amount outstanding. There is nothing to suggest that the Respondent's failure to pay is related to an issue with benefits. Ground 12 is satisfied subject to paragraph 3(b) regarding reasonableness.

28. We require, in terms of the Act as currently amended, to consider the reasonableness of the application even in regard of persistent arrears. We were satisfied that the Applicant's reasons for seeking eviction were reasonable given the amount and duration of the arrears. There was an absence of any engagement by the Respondent on payment of the arrears. The Respondent did not appear or provide submissions in regard to any issue regarding reasonableness and we are satisfied that it is reasonable to evict on the basis of the information before us.
29. The Rules allow at rule 17(4) for a decision to be made at a CMD as at a hearing before a full panel of the Tribunal. On the basis of the information held, we are thus satisfied to grant an order for eviction at this time.

Decision

30. In all the circumstances, we grant an order against the Respondent for eviction from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 further to ground 12 of Schedule 3 of that Act.

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.

Joel Conn

Legal Member/Chair

— **9 June 2025**
Date