



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

Chamber Ref: FTS/HPC/EV/25/1205

Property at Flat 3, 32 Durban Avenue, Clydebank, G81 4JH (“the Property”)

Parties:

Mrs Avril Riddick, 48 Hawthorn Street, Clydebank, G81 3EF (“the Applicant”)

Mr Paul Bradley, Flat 3, 32 Durban Avenue, Clydebank, G81 4JH (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Ann Moore (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 against the Respondent in favour of the Applicant.

Background

1. The Applicant seeks an eviction order in terms of Section 51 and Ground 12 of schedule 3 of the 2016 Act. A tenancy agreement, Notice to leave, rent statement, rent increase notice, section 11 notice and evidence of compliance with the rent arrears pre action protocol were lodged with the application.
2. A copy of the application was served on the Respondent by Sheriff Officer. The parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 31 July 2025 at 10am and that they were required to participate. Prior to the CMD the Applicant lodged an updated rent statement with a request to amend the sum claimed in the related application CV/25/1206.
3. The CMD took place on 31 July 2025. The Applicant was represented by Ms Wooley. The Respondent did not participate. The related application was also discussed.

Summary of Discussion at CMD

4. Ms Wooley told the Tribunal that the Respondent is still in occupation of the property. There has been no recent contact from him. The last contact was in October 2024 when he promised a payment of £900 which did not materialise. As far as the Applicant is aware, the Respondent lives at the property alone and does not suffer from any health issues. His employment status is not known but all payments to the rent account have been made by him and not by Universal Credit. The Applicant has not been provided with any explanation for the rent arrears. In response to questions from the Tribunal Ms Wooley said that the Applicant is a full-time student and depends upon the rental income from the property and her three other rental properties, as it is her only source of income. There is no mortgage over the property, but the Applicant has agency fees, insurance and repair costs in relation to the property. Ms Wooley said that it would be reasonable for the eviction order to be granted. She also advised the Tribunal that the Applicant seeks a payment order for the unpaid rent with interest at 3% above the base rate which is currently 4.25%.

Findings in Fact

5. The Applicant is the owner and landlord of the property.
6. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
7. The Respondent is due to pay rent at the rate of £505.22 per month.
8. The Respondent has been in arrears of rent since 1 February 2023, and no payments have been made by the Respondent since March 2025.
9. The Respondent currently owes £3674.64 in unpaid rent.
10. The Applicant served a Notice to leave on the Respondent on 5 February 2025.
11. The Applicant has issued letters to the Respondent in compliance with the rent arrears pre action protocol.
12. The Respondent has failed to engage with the Applicant or offer any explanation for the arrears.
13. The Applicant is a student who relies on the rental income from her rental properties.

Reasons for Decision

14. The application was submitted with a Notice to Leave dated 5 February 2025, together with a copy of an email which establishes that the Notice was sent to

the Respondent on that date. The Notice states that an application to the Tribunal is to be made on ground 12, rent arrears over three consecutive months.

15. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
16. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
17. Ground 12 of Schedule 3 (as amended by the Coronavirus (Recovery and Reform (Scotland) Act 2022) states "(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. (3) The First-tier Tribunal may find that the ground named in 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."
18. Sub-Paragraph (4) states, "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 Minister in regulations." Relevant benefits are defined in sub-paragraph (5) and include housing benefit and universal credit. The Pre Action-Requirements Regulations include the provision of clear information relating to the terms of the tenancy agreement, the level of the arrears, the tenant's rights in relation to eviction proceedings and how the tenant can access information and advice.
19. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Respondent currently owes £3674.64 and that he has been in arrears of rent for three or more consecutive months, both at the date of service of the Notice to leave and the CMD. Part 1 of Ground 12 is therefore established.
20. The Tribunal proceeded to consider whether it would be reasonable to grant the order and noted the following: -
 - (a) The Tribunal is satisfied that the Applicant has complied with the Rent Arrears Pre-Action Protocol. The Applicant provided copies of letters issued to the Respondent in compliance with the protocol.

- (b) The Tribunal is also satisfied that there is no evidence that the arrears are attributable to a delay or failure in the payment of a relevant benefit.
- (c) The Respondent did not participate in the CMD or notify the Tribunal if the application is opposed.
- (d) The arrears are substantial and are increasing. No payments have been made for several months.
- (e) The Applicant relies on the rental income from the property.

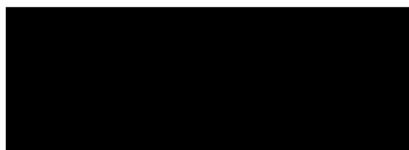
21. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act that ground 12 has been established. For the reasons outlined in paragraph 20, the Tribunal is also satisfied that it would be reasonable to grant the order for eviction.

Decision

22. The Tribunal determines that an eviction order should be granted against the Respondent.

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.



Josephine Bonnar, Legal Member

31 July 2025