

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/24/5731

Re: Property at Flat 02/02, 46 Brownhill Road, Mansewood, Glasgow, G43 2AE (“the Property”)

Parties:

Mr James Taylor, 4 Broadlees Gardens, Chapelton, Strathaven, South Lanarkshire, ML10 6SN (“the Applicant”)

Ms Margaret McGillivray, Flat 02/02 46 Brownhill Road, Mansewood, Glasgow, G43 2AE (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mr A Khan (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 in the period between 12th December 2024 and 28th January 2025. The Applicant is seeking an eviction order under grounds 11, 12, 14 and 15. The Applicant’s solicitor lodged a copy of a tenancy agreement between the parties in respect of the Property, which commenced on 18th October 2019, a rent statement, copy Notice to Leave with evidence of service, copy section 11 notice with evidence of service, copy correspondence between the parties, correspondence from a plumbing company, copy order for payment of arrears, and a pre-action requirement letter.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by Sheriff Officer on 6th June 2025
3. By email dated 14th July 2025, the Applicant solicitor lodged written representations and an amended rent statement showing an arrears balance of £12,516.60. The Applicant solicitor informed the Tribunal they would not attend the Case Management Discussion.

The Case Management Discussion

4. A Case Management Discussion ("CMD") took place by telephone conference on 30th July 2025. The Applicant was in attendance. The Respondent was not in attendance.
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. The Applicant confirmed the balance of arrears remained at £12,516.60, which includes the sum of £6,337.35, in respect of an order for payment granted by another Tribunal on 29th October 2024. The Respondent has paid no rent since February 2024. The Applicant said he previously signposted the Respondent to sources of advice. Payment plans have been put in place, but they have failed. The Applicant said the rent is low for a property in that area, and he has never increased the rent.
7. Responding to questions from the Tribunal, the Applicant said the Respondent had refused to allow entry for certification and repair purposes, even after reporting repairs required to the hall ceiling. The Applicant said the gas boiler was replaced following repairing issues. This took 5 or 6 weeks to complete.
8. Responding to questions from the Tribunal, the Applicant said there had been anti-social behaviour for some time, including serious threats to neighbours by the partner of the Respondent, and this had caused tenants in the downstairs property, which is also owned by the Applicant, to leave. The Applicant said he was unable to provide evidence of police involvement other than crime reference numbers, as this information is not available to him.
9. Responding to questions from the Tribunal, the Applicant said the Respondent lives at the Property with her partner and her daughter, who is around 14 years old. The Applicant understands the Respondent's partner's 18-year-old son has lived at the Property in the past. The Respondent is self-employed as a hairdresser. The Respondent's partner is believed to be in employment in the construction industry. The Respondent asked the Applicant for a letter of support when applying for benefits in the past, but that was before she began her hairdressing business.
10. The Applicant said he has three properties for let. There is no mortgage on the Property, but there are outgoings in respect of buildings and content insurance, agency fees and factoring fees.
11. The Tribunal indicated to the Applicant that a view may be taken that there was insufficient evidence to support grounds 11, 14 and 15. The Applicant indicated he would be satisfied with an eviction order granted under ground 12.

Findings in Fact and Law

12.

- (i) Parties entered into a private residential tenancy agreement in respect of the Property which commenced on 18th October 2019, at a monthly rent of £535.
- (ii) The Applicant has served a Notice to Leave upon the Respondent.
- (iii) The Respondent has accrued rent arrears.
- (iv) The Respondent has been in rent arrears for three or more consecutive months.
- (v) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
- (vi) The Applicant has complied with the pre-action protocol.
- (vii) It is reasonable to grant an eviction order.

Reasons for Decision

13. 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.
14. The Tribunal was not satisfied that ground 11 had been met. There was an email from an employee of a plumbing company stating that they had gone through the client records and that emails, phone calls and texts to the Respondent had gone unanswered. The Tribunal considered there was insufficient evidence to find that the ground was met. The Tribunal would have expected to see the actual requests for access made by the Applicant or any contractors to the Respondent, and any response to such requests.
15. The Tribunal was not satisfied that grounds 14 and 15 had been established. There was a considerable amount of evidence of discussion between the parties regarding alleged antisocial behaviour, but there was no evidence from neighbours, police or the Court to substantiate allegations.
16. 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.

17. 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.
18. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
19. The Tribunal considered the level of arrears to be substantial and rising. The Tribunal considered the tenancy is not sustainable, as the Respondent appears unable or unwilling to pay the rent and arrears. No rent has been paid since February 2024. The Tribunal took into account that there is a child living in the Property, however, in the absence of any representations from, or attendance by, the Respondent, it was impossible for the Tribunal to consider the likely impact of an order being granted upon the Respondent or her child.
20. The Applicant has outgoings to pay on the Property. The Applicant is suffering loss as a result of the Respondent's failure to pay the rent.
21. 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

22. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 1st September 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.

Helen Forbes

Legal Member 30th July 2025

